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OF ALL THE

PUBLIC

ACTS

OF THE

STATE OF NORTH CAROLINA AND OF THE STATE

OF TENNESSEE

NOW IN FORCE

IN THE STATE OF TENNEESSEE.

REVISED IN THE WINTER OF 1809 BY JOHN HAYWOOD ESQ. ATTORNEY AT LAW, AND FORMERLY A JUDGE OF THE SUPERIOR COURTS OF NORTH CAROLINA.

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Naſhville, Printed and Sold by Thomas G. Bradford, printer of
the laws of the United States.

1809.

NOTE.

In the following pages are inſerted all the public acts which are in force and uſe and regulate the common concerns of individuals. Other acts which chiefly and immediately concern the government, its boundaries, diviſions, inſtitutions and public contracts are reſerved for a ſecond volume. It is ſuppoſed the general aſſembly will order ſo many of theſe volumes to be printed at the public expence as will anſwer public purpoſes. And then ſuch individuals as chooſe may be ſupplied with thoſe acts, whilſt others who do not wiſh to purchaſe them may have the firſt volume without the expence of the ſecond.

The act of 1786 chapter one is inſerted in this collection, tho' much doubt is entertained by the compiler whether it be in force or not. The reader may judge for himſelf. There are alſo errors and omiſſions in the work noticed in the two following pages, which will be corrected in a ſecond edition.

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The act of 1786 ch 5 and 1789 ch 8 are inſerted by miſtake, neither of them are in force. 1741 ch 18 is not in page 43 where it ſhould be but in page 221. 1782 ch 11 ſ 3 is not in page 117 where it ought to be but in page 281. There are alſo errors & omiſſions in the work noticed in the two following pages, which will be corrected in a ſecond edition.

ERRATA.

The purchaſer will pleaſe to mark in the pages herein referred to an E that it may lead the reader to the errata whenever he comes to an error.

Page 6 line 2 for *two-thirds* read *two-thirds of the members.*
—— 7 3 of art. I ſ 5 for *their* read *their brigade.*
—— 13 1 ſ 8 for *as* read *as to.*
—— 15 5 from the bottom for *him* read *him or them.*
—— 23 4 ſ 5 for *of* read *of the*
—— do 11 do for *estate* read *estate in the name of the governor or commander in chief for the time being.*
—— 27 line 11 ſ 2 for *the* read *the clerk of the*
—— 70 line at the bottom for *he* read *the sheriff*
—— 83 2 ſ 2 for *receiving* read *recovering*
—— 91 3 for *woeful* read *wilful*
—— 113 13 for *as* read *as for*
—— 123 23 for *and* read *and for want of sons among the*
—— 153 19 ſ 1 for *the* read *they shall*
—— 158 7 ſ 2 for *the* read *any sum*
—— 159 19 ſ 1 for *nor* read *or*
—— 187 7 for *tenure* read *nature*

ERRATA.

—— 196 8 ſ. 58 omit from *administrators* to *excepted.*

—— 216 line 16 for *for* read *for the.*

—— 216 After ſect. 3 read ſect. 4. *Be it enacted,* That for each attorney acting in behalf of the ſtate, for every bill found two dollars and fifty cents—on each ignoramus one dollar and twenty-five cents.

—— 229 line 3 omit from *pay* to *a* in the next line.

—— 262 line 3 for *assigned* read *assignable.*

—— 270 line 22 for *letters* read *letter.*

—— 276 line 4 for *injury* read *a jury.*

—— 286 Chap. 13 line 26 for *judicial* read *judicious.*

—— 311 line 17 for *forty* read *forty five.*

—— 316 line 7 for *serjeant* read *sheriff.*

—— 319 line 26 for *passing* read *passage.*

—— 319 line 43 for *brigadier* read *brigade.*

—— 321 line 6 for *repressing* read *repelling.*

—— 324 lines 12 & 31 for *case* read *cases.*

—— 325 for Chap. *two* read Chap. *three.*

—— 331 line 1 for *up* read *upon.*

—— 332 for Chap. *eleven* read Chap. *nine.*

—— 334 Chap. 10 ſect. 2. *Be it enacted,* That it ſhall be the duty of each and every regiſter to regiſter the probate on each and every deed of conveyance.

—— 345 line 14 for *therein* read *herein.*

—— 345 Chap. 55 line 6 for *judicial* read *juridical.*

—— 347 Chap. 78 line 7 for *statue* read *statute.*

—— 354 line 4 for *there* read *three.*

—— 354 line 38 for *time* read *term.*

—— 354 line 52 for *to* read *to be.*

—— 355 line 1 for *for* read *to.*

—— 358 chap. 9 line 13 for *damage* read *damages.*

—— 365 Chap. 6 for ſect. *three* read ſect. *two.*

—— 395 line 37 for *proceedings* read *proceeds.*

—— 396 line 51 for *twelve* read *twenty.*

—— 399 line 14 for *any* read *any part.*

—— 411 Chap. 40 line 32 for *receiving* read *received.*

—— 419 line 1 for *inference* read *interference.*

—— 419 line 40 for *the* read *that.*

—— 424 line 17 for *commissioner* read *said commissioner.*

—— 424 line 18 for *proceed* read *produce.*

—— 434 line 3 for *marking* read *making.*

—— 434 line 22 for *survey* read *surveys.*

—— 436 line 28 for *intends* read *is intended.*

—— 436 line 46 for *sixth* read *fifth.*

—— 438 line 27 for *and* read *any.*

—— 439 line 28 for *pleading* read *pleadings.*

—— 440 line 33 for *part* read *parts.*

—— 444 Chap. 8 line 22 for *the fence* read *the said fence.*

—— 444 Chap. 8 line 32 for *horse* read *horses.*

—— 446 Chap. 17 line 23 for *unto* read *into.*

—— 448 line 13 for *such* read *each.*

—— 449 line 46 for *whenever* read *wherever.*

—— 454 line 15 for *by law* read *by law to be.*

ERRATA.

OMITTED in 1715, Chap. 27 ſect. 9, *Provided nevertheleſs and be it further enacted,* That if any perſon or perſons that is or ſhall be entitled to any ſuch actions of treſpaſs, detinue, actions fur trover, replevin, actions of accompt, and upon the caſe, actions of debt for arrearages of rent, actions of aſſault, menace, battery, wounding, and impriſonment, actions of treſpaſs quare clauſum fregit, actions upon the caſe for ſlanderous words; be, or ſhall be at the time of any ſuch cauſe of action given or accrued, fallen or come within the age of twenty one years, feme covert, non compos mentis, impriſoned, or beyond the ſeas; that then ſuch perſon or perſons ſhall be at liberty to bring the ſame actions, ſo as they bring the ſame within ſuch times as are before limitted, after their coming to or being of full age, diſcoverture, of ſound memory, at large, or returned from beyond the ſeas, as other perſons, having no ſuch impediment, might have done.

Chap, 12 ſect. 3 a law of 1804 was Omitted in its proper place, and appears as follows:

An act to repeal part of an act entitled, "an act to aſcertain what property in this ſtate ſhall be deemed taxable and the mode of collecting, accounting for and paying the public taxes," (paſſed on the 7th day of November 1803) and for other purpoſes.

3. *Be it enacted,* That where any Sheriff or Coroner has ſold, or may hereafter ſell land for taxes, and before making a title or titles thereto, ſhall die, remove or abſcond from his or their County, then and in ſuch caſe his or their ſucceſſors in office ſhall make a deed or deeds when called on, to all or any lands ſold as aforeſaid which deed or deeds ſhall be as good and valid in law and equity as if made by the Sheriff or Coroner who originally ſold ſuch land.

There being two ſect. 13 of Ch. 104 in the pamphlet law of 1807 one in the following words was unintentionally omitted.

13. *Be it enacted,* That from and after the paſſing of this act, whenever it ſhall ſo happen, that the ſheriff of any county in this ſtate, is a party to, or intereſted in any ſuit now depending, or which may hereafter be commenced, in any county or ſuperior court, and where there is no coroner in ſuch county, or if their be a coroner, and he alſo is a party or intereſted in ſuch caſe, it ſhall, and may be lawful, for any conſtable of ſuch county to whom the ſame may be delivered, to execute the leading, or any ſubſequent proceſs, iſſued in ſuch ſuit, and make return in the ſame manner, as if he was ſheriff; and ſuch conſtable, ſhall be entitled to the ſame fees in ſuch caſes, that the ſheriff is entitled to for ſimilar ſervices, and ſhall be liable to the ſame penalties and proceedings for any neglect or mal-practice in the ſervice of ſuch proceſs, that ſheriffs are by law liable to, for ſimilar neglects or mal-practices.

Two other omiſsions were noticed, but inserted in the body of the work—the one in page 221 the other in page 281.

ERRATA.

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In page 6 ſecond line from the top read *of the members* between *thirds* and *of*

7 third line art. 7 ſ 5 read *brigade* between *their* and *majors*

23 eleventh line of ſ 5 read *in the name of the governor or commander in chief for the time being* between *estate* and *with*

27 eleventh line of ſ 2 read *clerk of the* between *the* and *precinct*

70 laſt line read *the ſheriff* for *he*

123 ſecond line above ſ 3 read *for want of sons among the* between *and* and *daughters*

167 chap. 8 is not in force in this ſtate

196 eighth line from the top omit from *administrators* to *excepted*

216 after ſ 3 read " 4. Be it enacted. That for each attorney acting in behalf of the ſtate for every bill found two dollars and fifty cents—on each ignoramus one dollar and twenty-five cents

229 third line from the top ſtrike out from *pay* to *a* in the next line

276 fourth line read *a jury* inſtead of *injury*

311 fifth line ſ 12 read *five* after *forty*

316 ſeventh line from the top read *ſheriff* inſtead of *ſergeant*

325 read chap 3 inſtead of 2

332 read chap 9 inſtead of 11.

334 ſecond line from the top read after *the same* 2. Be it enacted, That it ſhall be the duty of each and every regiſter to regiſter the probate on each and every deed of conveyance.

345 third line ſ 4 read *herein* for *therein*

354 fourth line from the top read *three* for *there*

396 ſecond line ſ 11 read *twenty* for *twelve*

424 fourteenth line ſ 16 read *produce* for *proceed*

434 third line read *making* for *marking*

454 fourth line ſ 4 read *to be* between *law* and *allowed*

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CONSTITUTION

OF THE

STATE OF TENNESSEE.

WE, the People of the Territory of the United States south of the river Ohio, having the right of admission into the general government as a member-state thereof, consistent with the Constitution of the United States, and the act of cession of the state of North-Carolina, recognizing the ordinance for the government of the Territory of the United States' north-west of the river Ohio.—DO ordain and establish the following Constitution, or form of government: and do mutually agree with each other to form ourselves into a free and independent state by the name of "THE STATE OF TENNESSEE."

ARTICLE I.

Section 1. The legislative authority of this state, shall be veſted in a general aſſembly, which ſhall conſist of a ſenate and houſe of repreſentatives, both dependent on the people.

Sec. 2. Within three years after the firſt meeting of the general aſſembly, and within every ſubſequent term of ſeven years, an enumeration of the taxable inhabitants ſhall be made in ſuch manner as ſhall, be directed by law; the number of repreſentatives ſhall, at the ſeveral periods of making ſuch enumeration, be fixed by the legiſlature, and apportioned among the ſeveral counties, according to the number of taxable inhabitants in each; and ſhall never be leſs than twenty-two, nor greater than twenty-ſix, until the number of taxable inhabitants ſhall be forty thouſand; and after that event, at ſuch ratio that the whole number of repreſentatives ſhall never exceed forty.

Sec. 3. The number of ſenators ſhall, at the several periods of making the enumeration before mentioned, be fixed by the legiſlature, and apportioned among the diſtricts, formed as herein after directed, according to the number of taxable inhabitants in each; and shall never be leſs than one third, nor more than one half of the number of representatives.

Sec 4 The ſenators shall be chosen by diſtricts, to be formed by the legislature, each district containing such a number of taxable inhabitants, as shall be entitled to elect not more than three senators. When a district shall be composed of two or more counties, they shall be adjoining, and no county shall be divided in forming a district.

Sec. 5. The firſt election for ſenators and repreſentatives shall commence on the ſecond Thurſday of March next, and shall continue for that and the ſucceeding day; and the next election shall commence on the firſt Thurſday of Auguſt, one thouſand ſeven hundred and ninety seven, and shall continue on that and the ſucceeding day; and forever after, elections shall be held once in two years, commencing on the firſt Thurſday in Auguſt, and terminating the ſucceeding day.

Sec. 6. The firſt ſeſſion of the general aſſembly shall commence on the laſt Monday of March next. The second on the third Monday of September, one thouſand seven hundred and ninety-ſeven. And forever after, the general aſſembly shall meet on the third Monday of September next enſuing the then election, and at no other period, unleſs as provided for by this conſtitution.

Sec. 7. That no perſon shall be eligible to a ſeat in the general aſſembly unleſs he shall have reſided three years in the state, and one year in the county, immediately preceding the election, and shall poſſess in his own right, in the county which he represents, not leſs than two hundred acres of land, and shall have attained to the age of twenty one years.

Sec. 8. The senate and houſe of repreſentatives, when aſſembled, shall each choose a speaker and its other officers, be judges of the qualifications and election of its members, and sit upon its own adjournments from day to day. Two thirds of each houſe shall constitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authoriſed, by law, to compel the attendance of absent members.

Sec. 9. Each house may determine the rules of its proceedings, puniſh its members for disorderly behavior, and, with the concurrence of two thirds, expel a member, but not a ſecond time for the ſame offence; and ſhall have all other powers neceſſary for the legiſlature of a free state.

Sec. 10. Senators and repreſentatives ſhall in all cases, except treaſon, felony or a breach of the peace, be previleged from arreſt during the ſeſſion of the general aſſembly, and in going to and returning from the same: and for any speech or debate in either house, they ſhall not be queſtioned in any other place.

Sec. 11. Each house may puniſh, by imprisonment, during their ſeſſion, any perſon, not a member, who ſhall be guilty of diſrespect to the houſe, by any diſorderly or contemptuous behavior in their presence.

Sec. 12. When vacancies happen in either house, the governor, for the time being, ſhall iſſue writs of election to fill ſuch vacancies..

Sec. 13. Neither houſe ſhall, during their seſſion, adjourn without conſent of the other, for more than three days, nor to any other place than that in which the two houſes ſhall be ſitting.

Sec. 14. Bills may originate in either house, but may be amended, altered, or rejected by the other.

Sec. 15. Every bill ſhall be read three times, on three different days, in each houſe, and be ſigned by the reſpective speakers before it becomes a law.

Sec. 16. After a bill has been rejected, no bill containing the ſame ſubſtance ſhall be paſſed into a law during the ſame ſeſſion.

Sec. 17. The style of the laws of this ſtate, ſhall be, *Be it enacted by the General Assembly of the State of Tennessee.*

Sec. 18. Each house ſhall keep a journal of its proceedings, and publiſh them except such parts as the welfare of the state may require to be kept ſecret. And the yeas and nays of the members on any question, ſhall, at the request of any two of them, be entered on the journals.

Sec. 19. The doors of each house, and committees of the whole, ſhall be kept open, unless when the buſineſs ſhall be such as ought to be kept secret.

Sec. 20. The legislature of this state, ſhall not allow the following officers of government greater annual ſalaries than as follows, until the year one thouſand eight hundred and four, to wit;—The governor not more than ſeven hundred and fifty dollars. The judges of the ſuperior courts, not more than ſix hundred dollars each. The ſecretary not more than four hundred dollars. The treaſurer or treaſurers not more than four per cent. for receiving and paying out all monies. The attorney or attornies for the state ſhall receive a compensation for their services, not exceeding fifty dollars for each superior court which he or they ſhall attend. No member of the legislature ſhall receive more than one dollar and ſeventy-five cents per day, nor more for every twenty-five miles he ſhall travel in going to and returning from the general aſſembly.

Sec. 21. No money ſhall be drawn from the treasury, but in conſequence of appropriations made by law.

Sec. 22. No perſon who heretofore hath been, or hereafter may be a collector or holder of public monies, ſhall have a seat in either house of the general aſſembly, until ſuch perſon ſhall have accounted for and paid into the treasury all ſums for which he may be accountable or liable.

Sec. 23. No judge of any court of law or equity, secretary of state, attorney general, regiſter, clerk of any court of record or person holding any office under the authority of the United States, ſhall have a seat in the general aſſembly; nor ſhall any perſon, in this ſtate, hold more than one lucrative office at one and the same time; provided, that no appointment in the militia or to the office of a juſtice of the peace, ſhall be conſidered a lucrative office.

Sec. 24. No member of the general aſſembly ſhall be eligible to any office or place of truſt, except to the office of a juſtice of the peace, or truſtee of any literary inſtitution, where the power of appointment to ſuch office or place of truſt, is veſted in their own body.

Sec. 25. Any member of either house of the general aſſembly ſhall have liberty to diſſent from and proteſt againſt any act or resolve which he may think injurious to the public or any individual, and have the reaſons of his dissent entered on the journals.

Sec. 26. All lands liable to taxation in this ſtate, held by deed, grant or entry, ſhall be taxed equal and uniform, in ſuch manner, that no one hundred acres ſhall be taxed higher than another, except town lots, which ſhall not be taxed higher than two hundred acres of land each; no free man ſhall be taxed higher than one hundred acres, and no slave higher than two hundred acres on each poll.

Sec. 27. No article manufactured of the produce of this ſtate, ſhall be taxed otherwise than to pay inſpection fees.

ARTICLE II.

Sec. 1. The ſupreme executive power of this ſtate ſhall be veſted in a governor.

Sec. 2. The governor ſhall be choſen by the electors of the members of the general aſſembly, at the times and places where they ſhall reſpectively vote for the members thereof. The returns of every election for governor ſhall be ſealed up, and tranſmitted to the ſeat of government, by the returning officers, directed to the ſpeaker of the ſenate, who ſhall open and publiſh them in the preſence of a majority of the members of each houſe of the general aſſembly. The perſon having the higheſt number of votes ſhall be governor; but if two or more ſhall be equal, and higheſt in votes, one of them ſhall be choſen governor, by joint ballot of both houſes of the general aſſembly. Conteſted elections for governor, ſhall be determined by both houſes of the general aſſembly, in ſuch manner as ſhall be preſcribed by law.

Sec. 3. He ſhall be at leaſt twenty five years of age, and poſſeſs a freehold eſtate of five hunderd acres of land, and have been a citizen or inhabitant of this ſtate four years next before his election, unleſs he ſhall have been abſent on the public buſineſs of the United States, or of this ſtate.

Sec. 4. The firſt governor ſhall hold his office until the fourth Tuesday of September, one thouſand ſeven hundred and ninety-seven, and until another governor ſhall be elected and qualified to office; and forever after, the governor ſhall hold his office for the term of two years, and until another govornor ſhall be elected and qualified; but ſhall not be eligible more than ſix years in any term of eight.

Sec. 5. He ſhall be commander in chief of the army and navy of this ſtate, and of the militia, except when they ſhall be called into the ſervice of the United States.

Sec. 6. He ſhall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

Sec. 7. He ſhall, at stated times, receive a compenſation for his ſervices, which ſhall not be increaſed or diminiſhed during the period, for which he shall have been elected.

Sec. 8 He may require information, in writing, from the officers in the executive department, upon any ſubject relating to the duties of their reſpective offices.

Sec. 9. He may, on extraordinary occaſions, convene the general aſſembly by proclamation, and shall state to them when aſſembled, the purpoſe for which they shall have been convened.

Sec. 10. He shall take care that the laws shall be faithfully executed.

Sec. 11. He shall, from time to time, give to the general aſſembly information of the ſtate of the government, and recommend to their conſideration such measures as he shall judge expedient.

Sec. 12. In case of his death, or reſignation. or removal from office, the ſpeaker of the senate shall exercise the office of governor until another governor shall be duly qualified.

Sec. 13. No member of congreſs, or perſon holding any office under the United States, or this ſtate ſhall execute the office of govornor.

Sec. 14. When any officer, the right of whose appointment is by this conſtitution veſted in the general aſſembly, ſhall during the receſs, die, or his office by other means become vacant, the governor shall have power to fill up ſuch vacancy by granting a temporary commiſſion, which shall expire at the end of the next ſeſſion of the legiſlature.

Sec. 15. There shall be a seal of this ſtate, which shall be kept by the governor, and uſed by him officially, and shall be called the great ſeal of the ſtate of Tenneſſee

Sec. 16 All grants and commiſſions shall be in the name and by the authority of the ſtate of Tenneſſee, be ſealed with the ſtate ſeal, and ſigned by the governar.

Sec. 17. A secretary of this state ſhall be appointed and commiſſioned during the term of four years. He ſhall keep a fair regiſter of all the official acts and proceedings of the governor; and ſhall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and ſhall perform such other duties as shall be enjoined him by law.

ARTICLE III.

Sec. 1. Every freeman of the age of twenty-one years and upwards, poſſeſſing a freehold in the county wherein he may vote, and being an inhabitant of this ſtate, and every freeman, being an inhabitant of any one county in the ſtate ſix months immediately preceding the day of election, ſhall be entitled to vote for members of the general aſſembly, for the county in which he shall reſide.

Sec. 2. Electors ſhall in allcases, except treason, felony or a breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returnng from them.

Sec. 3. All elections ſhall be by ballot.

ARTICLE IV.

Sec. 1. The house of representatives shall have the sole power of impeachment.

Sec. 2. All impeachments shell be tried by the senate. When sitting for that purpoſe, the senators shall be upon oath or affirmation, *Sec.* 3. **No person shall be convicted without the concurrence of two thirds of the whole house.**

Sec. 4. The governor and all civil officers under the ſtate, ſhall be liable to impeachment for any misdemeanor in office; but judgment in such cases ſhall not extend further than to removal from office, and disqualification to hold any office of honor, truſt, or profit under this ſtate. The party, shall nevertheleſs, in all cases, be liable to indictment, trial, judgment, and punishment according to law.

ARTIGLE V.

Sec. 1. The judicial power of the ſtate shall be veſted in ſuch superior and inferior courts of law and equity, as the legislature shall, from time to time, direct and eſtablish.

Sec. 2. The general aſſembly shall by joint ballot of both houſes appoint judges of the ſeveral courts of law and equity, also an attorney or artornies for the state, who shall hold their respective offices during their good behavior.

Sec. 3. The judges of the superior court shall, at ſtated times, receive a compenſation for their servicas, to be ascertained by law; but shall not be allowed any fees or perquiſites of office, nor shall they hold any other office of truſt or profit under this ſtate or the United States.

Sec. 4. The judges of the superior courts shall be juſtices of oyer and terminer and general jali delivery, thro'out the ſtate.

Sec. 5. The judges of the superior and inferior courts shall not charge juries with respect to matters of fact, but may ſtate the testimony aud declare the law.

Sec. 6. The judges of the superior courts shall have power, in all civil caſes, to iſſue writs of certiorari, to remove any cauſe, or a transcript thereof, from any inferior court of record into the ſuperior, on ſuffibient cause, supported by oath or affirmation.

Sec. 7. The judges or juſtices of the inferior courts of law, ſhall have power, in all civil caſes, to iſſue writs of *certiorari*, to remove any cauſe, or a transcript thereof, from any inferior jurisdiction into their court, on ſufficient cauſe, supported by oath or affirmation.

Sec. 8. No judge ſhal ſit on the teial of any cause where the parties ſhall be connected with him, by affinity or conſanguinity, except by consent of parties. In case all the judges of the ſuperior court ſhall be interested in the event of any cauſe or related to all or either of the parties, the governor of the state ſhall in such case specially commiſſion three men, of law knowledge, for the determination thereof-

Sec. 9. All writs and other process, ſhall run, IN THE NAME OF THE STATE OF TENNESSEE; and bear test, and be ſigned by the respective clerks. Indictments ſhall conclude, *Against the peace and dignity of the state.*

Sec. 10. Each court ſhall appoint its own clerk, who may hold his office during good behaviour.

No fine ſhall be laid on any citizen of this ſtate, that ſhall exceed fifty dollars, unleſs it ſhall be aſſeſſed by a jury of his peers, who ſhall aſſeſs the fine at the time they find the fact, if they think the fine ought to be more than fifty dollars.

Sec. 12. There ſhall be juſtices of the peace appointed for each county, not exceeding two for each captain's company, except for the company which includes the county town, which ſhall not exceed three, who shall hold their offices during good behaviour.

ARTICLE VI.

Sec. 1. There shall be appointed in each county, by the county court, one ſheriff, one coroner, one trustee, and a ſufficient number of constables, who ſhall hold their offices for two years. They ſhall also have power to appoint one regiſter and ranger for the county who ſhall hold their offices during good behaviour. The ſheriff and coroner ſhall be commiſſioned by the governor.

Sec. 2. There ſhall be a treaſurer or treasurers appointed for the ſtate, who ſhall hold his or their offices for two years.

Sec. 3. The appointment of all officers not otherwiſe directed by this conſtitution, ſhall be vested in the legiſlature.

ARTICLE VII.

Sec. 1. Captains, subalterns, and non-commiſſioned officers ſhall be elected by thoſe citizens, in their reſpective diſtricts, who are ſubject to military duty.

Sec. 2. All field officers of the militia ſhall be elected by thoſe citizens in their respective counties who are ſubject to military duty.

Sec. 3. Brigadiers general ſhall be elected by the field officers of their reſpective brigades.

Sec. 4. Majors general shall be elected by the brigadiers and field officers of the respective diviſions.

Sec. 5. The governor shall appoint the adjutant general; the majors general shall appoint their aids; the brigadiers general shall appoint their majors, and the commanding officers of regiments their adjutants and quarter maſters.

Sec. 6. The captains and the subalterns of the cavalry ſhall be appointed by the troops enrolled in their reſpective companies, and the field officers of the diſtrict ſhall be appointed by the ſaid captains and subalterns, provided, that whenever any new county is laid off, that the field officers of the said cavalry ſhall appoint the captain and other officers therein, *pro tempore* until the company is filled up and completed, at which time the election of the captains & ſubalterns ſhall take place as aforeſaid.

Sec. 7. The legiſlature ſhall pass laws, exempting citizens belonging to any sect or denomination of religion, the tenets of which are known to be opposed to the bearing of arms, from attending private and general muſters.

ARTICLE VIII.

Sec. 1. Whereas miniſters of the goſpel are, by their profeſſions, dedicated to God and the care of ſouls, and ought not to be diverted from the great duties of their functions; therefore no miniſter of the goſpel, or prieſt of any denomination whatever, ſhall be eligible to a ſeat in either houſe of the legiſlature.

Sec. 2. No perſon who denies *the being of God, or a future state of rewards and punishments*, ſhall hold any office in the civil department of this ſtate.

ARTICLE IX.

Sec. 1. That every perſon, who ſhall be choſen or appointed to any office of truſt or profit, ſhall before entering on the execution thereof, take on oath to ſupport the conſtitution of this ſtate, and also an oath of office.

Sec. 2. That each member of the ſenate and houſe of repreſentatives, ſhall, before they proceed to buſineſs, take an oath or affirmation to support the conſtitution of this ſtate, and also the following oath.

I, A. B. do ſolemnly swear (or affirm) that as a member of this general aſſembly, I will in all appointments vote without fovor, affection, partiality, or prejudice, and that I will not propoſe or aſſent to any bill, vote, or resolution which ſhall appear to me injurious to the people, or conſent to any act or thing whatever, that ſhall have a tendency to leſſen or abridge their rights and privileges, as declared by the conſtitution of this ſtate.

Sec. 3. Any elector who ſhall receive any gift or reward for his vote, in meat, drink, money, or otherwiſe ſhall ſuffer ſuch puniſhment as the laws ſhall direct. And any perſon who ſhall directly or indirectly give, promiſe, or beſtow any such reward to be elected, ſhall thereby be rendered incapable, for two years, to ſerve in the office for which he was elected, and be ſubject to ſuch further puniſhment as the legiſlature ſhall direct.

Sec. 4. No new county ſhall be eſtabliſhed by the general aſſembly, which ſhall reduce the county or counties, or either of them, from which it ſhall be taken, to a leſs content than ſix hundred and twenty-five ſquare miles. Nor ſhall any new county be laid off of leſs contents. All new counties, as to the right of ſuffrage and repreſentation, ſhall be conſidered as a part of the county or counties from which they were taken until entitled by numbers to the right of representation. No bill ſhall be paſſed into a law, for the eſtabliſhment of a new county, except upon a petition to the general aſſembly, for that purpoſe, ſigned by two hundred of the free male inhabitants within the limits or bounds of such new county prayed to be laid off.

ARTICLE X.

Sec. 1. KNOXVILLE ſhall be the seat of government, until the year one thouſand eight hundred and two.

Sec. 2. All laws and ordinances now in force and uſe in this territory, not inconſiſtant with this conſtitution, ſhall continue to be in force and uſe in this ſtate, until they ſhall expire, be altered, or repealed by the legiſlature.

Sec. 3. That whenever two thirds of the general aſſembly ſhall think it neceſſary to amend or change this conſtitution, they ſhall recommend to the electors, at the next election for members to the general aſſembly, to vote for or againſt a convention; and if it ſhall appear that a majority of all the citizens of the ſtate, voting for repreſentatives, have voted for a convention, the general aſſembly ſhall, at their next ſeſſion, call a convention, to conſiſt of as many members as there be in the general aſſembly, to be choſen in the ſame manner, at the ſame place, and by the ſame electors, that choſe the general aſſembly, who ſhall meet within three months after the ſaid election, for the purpoſe of reviſing and mending, or changing the conſtitution.

Sec. 4. The declaration of rights hereto annexed, is declared to be a part of the conſtitution of this ſtate, and ſhall never be violated on any pretence whatever. And to guard againſt tranſgreſſion of the high powers which we have delegated, we declare, that every thing in the bill of rights contained, and every other right not hereby delegated, is excepted out of the general powers of government, and ſhall forever remain inviolate.

ARTICLE XI.

DECLARATION OF RIGHTS.

I. That all power is inherent in the people, and all free governments are founded on their authority, and inſtituted for their peace, safety and happineſs: for the advancement of thoſe ends, they have, at all times, an unalienable and indefeaſible right to alter, reform, or aboliſh the government in ſuch manner as they may think proper.

II. That government being inſtituted for the common benefit, the doctrine of non-reſistance againſt arbitrary power and oppreſſion is abſurd, ſlaviſh, and deſtructive to the good and happineſs of mankind

III. That all men have a natural and indefeaſible right to worſhip ALMIGHTY GOD according to the dictates of their own conſcience; that no man can, of right, be compelled to erect, or ſupport any place of worſhip, or to maintain any miniſtry againſt his conſent; that no human authority can in any caſe whatever controul or interfere with the rights of conſcience; and that no preference ſhall ever be given by law to any religious eſtabliſhments or modes of worſhip.

IV. That no religious teſt ſhall ever be required as a qualification to any office or public truſt under this ſtate.

V. That elections ſhall be free and equal.

VI. That the right of trial by jury ſhall remain inviolate.

VII. That the people ſhall be secure in their perſons, houses, papers, and poſſeſſions, from unreasonable searches, and seizures; and that general warrants, whereby an officer may be commanded to search suſpected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly deſcribed and ſupported by evidence, are dangerous to liberty, and ought not to be granted.

VIII. That no freeman ſhall be taken, or impriſoned, or diſſeized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land.

IX. That in all criminal prosecutions, the accused hath a right to be heard by himself, and his counſel; to demand the nature and cause of the accuſation against him, and to have a copy thereof; to meet the witneſſes face to face; to have compulsory process for obtaining witneſſes in his favor; and in prosecutions by indictment, or presentment, a speedy public trial, by an impartial jury of the county or district in which the crime ſhall have been committed; and ſhall not be compelled to give evidence againſt himſelf.

X. That no perſon ſhall, for the ſame offence, be twice put in jeopardy of life or limb.

XI. That laws made for the puniſhment of facts committed previous to the existance of such laws, and by them only declared criminal, are contrary to the principles of a free government; wherefore no ex poſt facto law ſhall be made.

XII. That no conviction ſhall work corruption of blood or forfeiture of eſtate.—The eſtate of ſuch perſons as ſhall deſtroy their own lives, ſhall deſcend or veſt as in case of natural death.—If any perſon be killed by casualty, there ſhall be no forfeiture in consequence thereof.

XIII. That no person arreſted, or confined in jail, ſhall be treated with unneceſſary rigor.

XIV. That no freeman ſhall be put to answer any criminal charge, but by presentment, indictment, or impeachment.

XV. That all priſoners ſhall be bailable by ſufficient ſureties, unleſs for capital offences, when the proof is evident or the presumption great. And the privilege of the writ of habeas corpus ſhall not be suspended, unless when, in caſe of rebellion or invaſion, the public safety may require it.

XVI. That excessive bail ſhall not be required, nor exceſſive fines impoſed, nor cruel and unuſual puniſhments inflicted.

XVII. That all courts ſhall be open; and every man, for an injury done him in his lands, goods, person, or reputation, ſhall have remedy by due course of law, and right and juſtice adminiſtered without sale, denial, or delay. Suits may be brought againſt the ſtate in ſuch manner, and in ſuch courts as the legislature may by law direct, provided the right of bringing ſuit be limited to the citizens of this state.

XVIII. That the person of a debtor, where there is no strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

XIX. That the printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or of any branch or officer of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being reſponſible for the abuse of that liberty, but in proſecutions for the publication of papers inveſtigating the offical conduct of officers, or men in public capacity, the truth thereof may be given in evidence, and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other caſes.

XX. That no retrospective law, or law impairing the obligation of contracts, shall be made.

XXI. That no man's particular services shall be demanded, or property taken, or applied to public use, without the conſent of his representatives, or without juſt compensation being made therefor.

XXII. That the citizens have a right, in a peaceable manner, to aſſemble together for their common good, to inſtruct their repreſentatives, and to apply to thoſe inveſted with the powers of government for redress of grievances, or other proper purposes, by addreſs or remonſtrance.

XXIII. That perpetuities and monopolies are contrary to the genius of a free ſtate, and ſhall not be allowed.

XXIV. That the sure and certain defence of a free people is a well regulated militia; and as standing armies, in time of peace, are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit; and that in all cases the military shall be in strict ſubordination to the civil authority.

XXV. That no citizen in this state, except ſuch as are employed in the army of the United States, or militia in actual service, ſhall be ſubject to corporal puniſhment under the martial law.

XXVI. That the freemen of this state have a right to keep and to bear arms for their common defence.

XXVII. That no soldier ſhall, in time of peace, be quartered in any houſe without consent of the owner, nor in time of war, but in a manner prescribed by law.

XXVIII. That no citizen of this state shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

XXIX. That an equal participation of the free navigation of the Miſſiſippi, is one of the inherent rights of the citizens of this state: it cannot therefore, be conceded to any prince, potentate, power, person, or persons whatever.

XXX. That no hereditary emoluments, privileges, or honours shall ever be granted or conferred in this ſtate.

XXXI. That the people reſiding ſouth of French Broad and Holſton, between the rivers Tenneſſee and the Big Pigeon, are entitled to the right of pre-emption and occupancy in that tract.

XXXII. That the limits and boundaries of this state be aſcertained, it is declared they are as hereafter mentioned; that is to ſay :——Beginning on the extreme height of the Stone mountain, at the place where the line of Virginia interſects it, in latitude thirty six degrees and thirty minutes North—running thence along the extreme height of the said Mountain, to the place where Watauga River breaks through it; thence a direct courſe to the top of the Yellow Mountain, where Bright's road croſſes the same; thence along the ridge of ſaid Mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the Road croſſes the Iron Mountain; from thence along the extreme height of said Mountain to where Nolichucky River runs through the same; thence to the top of the Bald Mountain thence along the extreme height of the ſaid Mountain to the painted Rock, on French Broad River; thence along the highest ridge of ſaid Mountain, to the place where it is called the Great Iron or Smoky Mountain; thence along the extreme height of said Mountain to the place where it is called Unicoi or Unaka Mountain, between the Indian Towns of Cowee and Old Chota; thence along the main ridge of the said Mountain to the ſouthern boundary of this state, as described in the act of ceſſion of North Carolina, to the United States of America; and that all the territory, lands, and waters lying West of the said line, as before mentioned, and contained within the chartered limits of the state of North Carolina, are within the boundaries and limits of this ſtate, over which the people have the right of exerciſing ſovereignty and right of soil so far as is conſiſtent with the conſtitution of the United States, recognizing the articles of confederation, the bill of rights and constitution of North Carolina, the ceſſion act of the said ſtate, and the ordinance of the late Congreſs for the government of the Territory North West of the Ohio; provided, nothing herein contained ſhall extend to affect the claim or claims of individuals to any part of the ſoil which is recognized to them by the aforesaid ceſſion act.

SCHEDULE.

Sec. 1. That no inconvenience may arise from a change of the temporary to a permanent ſtate government, it is declared, that all rights, actions, prosecutions, claims and contracts, as well of individuals as of bodies corporate, ſhall continue, as if no change had taken place in the adminiſtration of government.

Sec. 2. All fines, penalties, and forfeitures, due and owing to the territory of the United States of America ſouth of the river Ohio, ſhall enure to the use of the ſtate. All bonds for performance, executed to the governor of the said territory, ſhall be and paſs over to the governor of this ſtate, and his ſucceſſors in office, for the uſe of the ſtate, or by him or them reſpectively to be aſſigned over to the uſe of thoſe concerned, as the caſe may be.

Sec. 3. The governor, secretary, judges and brigadiers general have a right, by virtue of their appointments, under the authority of the United States, to continue in the exercise of the duties of their respective offices, in their several departments, until the said officers are superseded under the authority of this conſtitution.

Sec. 4. All officers, civil and military, who have been appointed by the governor, shall continue to exercise their respective offices until the second Monday in June, and until ſucceſſors in office shall be appointed under the authority of this constitution, and duly qualified.

Sec. 5. The governor shall make use of his private seal, until a state seal shall be provided.

Sec. 6. Until the first enumeration shall be made, as directed in the second section of the first article of this conſtitution, the several counties shall be respectively entitled to elect one senator and two representatives: Provided that no new county shall be entitled to separate representation previous to taking the enumeration.

Sec. 7. That the next election for representatives and other officers, to be held for the county of Tenneſſee, shall be held at the house of William Miles.

Sec. 8. Until a land office shall be opened, so as enable the the citizens south of French Broad and Holſton, between the rivers Tenneſſee and Big Pigeon, to obtain titles upon their claims of occupancy and pre-emption, those who hold land by virtue of such claims, shall be eligible to serve in all capacities, where a freehold is by this conſtitution made a requiſite qualification.

DONE in convention, at Knoxville, by unanimous consent, on the ſixth day of February in the year of our Lord one thousand seven hundred and ninety-ſix, and of the independence of the United States of America, the twentieth.—In teſtimony whereof we have hereunto subscribed our names.

WILLIAM BLOUNT, Preſident.

Blount County,

David Craig, James Greenaway, Joseph Black, James Houston, Samuel Glass.

Sullivan County,

George Rutledge, William C. C. Claiborne, Richard Gammon, John Shelby, jun. John Rhea.

Davidson county,

John McNairy, Andrew Jackson, James Robertson, Thomas Hardiman, Joel Lewis.

Greene County,

Samuel Frazier, Stephen Brooks, Wm. Rankin, Elisha Baker, John Galbreath.

Hawkins County,

James Berry, Joseph McMin, Thomas Henderson, William Cocke, Richard Mitchell.

Jefferson county,

Alexander Outlaw, Joseph Anderson, George Doherty, James Roddye, Archibald Roane,

Knox County,

James White, Charles M'Clung, John Crawford, John Adair.

Sumner County,

David Shelby, Isaac Walton, W. Douglass, Edward Douglass, Daniel Smith.

Sevier County,

Peter Bryan, Samuel Wier, Spencer Clack, John Clack, Thomas Buckenham,

Tenneſſee County,

Thomas Johnston, James Ford, William Fort, William Prince, Robert Prince.

Washington County,

John Tipton, Samuel Handly, Leeroy Taylor, Landon Carter, James Stuart.

Atteſt, WILLIAM MACLIN, Sec.

LAWS

OF NORTH CAROLINA.

At a General Biennial Aſſembly, held at the houſe of Capt. Richard Sanderſon, at Little River, begun the 17th day of November, 1715, and continued, by ſeveral adjournments, until the 19th day of January, 1715.

CHAP. XVI.

An Act to direct the method to be obſerved in the examination and commitment of criminals.

Be it enacted by his excellency the Palatine, and the rest of the true and absolute Lords Proprietors of Carolina, by and with the advice and consent of this present general assembly, now met at Little River, for the the north-east part of the said province, and it is hereby enacted, That from henceforward, no perſon within this province ſhall be committed to priſon for any criminal matter, until examination thereof be firſt had before ſome magiſtrate; which magiſtrate ſhall admit the party to bail, if bailable, and ſhall record the examination of the party, and alſo the full matter given in evidence, both againſt him and for him, with all concurring circumſtances; and ſhall take recognizance, with good and ſufficient securities, to our sovereign lord the king, for the informer to appear and prosecute, as the laws of the kingdom of Great Britain and this province do direct; and likewiſe for all evidences for the king to appear, and give evidence againſt the criminal, at the next court, where the matter is cognizable, ensuing such examination: which examination and recognizances ſo taken, ſhall be returned to the office of the court wherein the matter is to be tried, under the penalty of five pounds for every neglect; one half to the lords proprietors, and the other half to him that ſhall ſue for the same: To be recovered, in any court within this government, by action of debt, bill, plaint or information; wherein no eſſoign, protection, injunction, or wager of law ſhall be allowed or admitted of.

1715

CHAP. XXVII.

An act concerning old titles of Lands, and for limitation of actions, and for avoiding ſuits in Law.

Whereas great suit, debate and controverſy hath heretofore been, and may hereafter arise, by means of ancient titles to Land derived from patents granted by the governor of Virginia, the conditions of which patents have not been performed, nor quit-rents paid, or the lands have been deserted by the firſt patentees, or for, or by reason, or means of former entries or patents granted in this government; for prevention whereof, and for quieting mens eſtates, and for avoiding suits in law,

2. *Be it enacted by his excellency the Palatine, and the rest of the true and absolute lords proprietors of Carolina, by and with the advice and consent of the present general assembly, now met at Little River, for the north east part of the said province, and it is hereby enacted by the authority of the same,* That all poſſeſſions of, or titles to any lands, tenements, or hereditaments whatſoever, derived from any ſales made by creditors, executors or administrators of any person deceased, or by husbands and their wives, or husbands in right of their wives, or by indorſement of patents, or otherwise, or ſhall continue in poſſeſſion of the same for the ſpace of seven years without any suit in Law, be, and are hereby ratified, confirmed, and declared good and legal, to all intents and purpoſes whatsoever, against all and all manner of persons: any former or other title, or claim, act, law, usage, or statute to the contrary, in any wise, notwithſtanding.

3. *And be it further enacted by the authority aforesaid,* That no person or perſons, nor their heirs, which hereafter ſhall have any right or title to any lands, tenements, or hereditaments, ſhall thereunto enter or make claim, but within seven years next after his, her or their right or title which deſcend or accrue; and in default thereof, such perſon or perſons so not entering or making default, ſhall be utterly excluded and disabled from any entry or claim thereafter to be made.

4. *Provided nevertheless,* That if any person or persons that is, or hereafter ſhall be, entitled to any right or claim of lands, tenements or hereditaments, ſhall be, at the time the ſaid right or title firſt descended, accrued, come, or fallen, within the age of twenty-one years, feme covert, non compos mentis, impriſoned, or beyond seas, that then such person or persons ſhall and may, notwithſtanding the ſaid seven years be expired, commence his, her or their suit, or make his, her or their entry, as he, ſhe, or they might have done before this act, so as such person or persons ſhall within three years next after full age, discoverture, coming of sound mind, enlargement out of priſon, or persons beyond ſeas, within eight years after the title or claim becomes due, take benefit and ſue for the ſame, and at no time or times after the times or limitations herein ſpecified; but that all poſſeſſions held without ſuing ſuch claim as aforeſaid ſhall be a perpetual bar againſt all and all manner of perſons whatsoever, that the expectation of heirs may not, in a ſhort time, leave much lands unpoſſeſſed and titles ſo perplexed that no man will know from whom to take or buy land.

5. *And be it further enacted by the authority aforesaid,* That all actions of treſpass, detinue, actions sur trover, and replevin, for taking away of goods and chattels; all actions of account and upon the caſe, all actions of debt for arrearages of rent, and all actions of aſſault, menace, battery, wounding, and impriſonment, or any of them, which ſhall be ſued or brought at any time after the ratification of this act, ſhall be commenced or brought within the time and limitation in this act expreſſed, and not after; that is to ſay, actions of account render, actions upon the caſe, actions of debt for arrearages of rent, actions of detinue, replevin, and treſpaſs quare clauſum fregit, within three years next after the ratification of this act, or within three years next after the cauſe of ſuch action or ſuit, and not after, except ſuch accounts as concern the trade of merchandize between merchant and merchant, and their factors or ſervants; and the ſaid actions of treſpass, assault and battery, wounding, impriſonment, or any of them, within one year next after the ratification of this act, or within one year after the cauſe of ſuch action or ſuit, and not after; and the ſaid actions upon the caſe for words, within ſix months after the ratification of this act, or within ſix months after the words spoken, and not after.

6. *Provided nevertheleſs, and it is hereby further enacted,* That if on any the ſaid actions or suits, judgment be given for the plaintiff, and the ſame be reversed by error, or a verdict paſs for the plantiff, and upon matter alledged in arreſt of judgment, the judgment be given againſt the plantiff, that he take nothing by his plaint, writ, or bill; or if any of the ſaid actions ſhall be brought by original writ, and the defendent cannot be attached or legally ſerved with proceſs, that in all ſuch caſes, the party plaintiff, his heirs, executors or adminiſtrators, as the case ſhall require, may commence a new action or suit, from time to time, within a year after ſuch judgment reverſed, or ſuch judgment given againſt the plantiff or till the defendant can be attached or ſerved with process, so as to compel him to appear and anſwer.

7. *And be it further enacted,* That in all actions of treſpaſs quare clauſum fregit, hereafter to be brought, wherein the defendant or defendants ſhall disclaim in his or their plea to make any title or claim to the lands in which the treſpass is by the declaration ſuppoſed to be done, and the treſpaſs be by negligence, or involuntary, the defendant or defendants ſhall be admitted to plead a diſclaimer, and that the treſpaſs was by negligence, or involuntary, and a tender or offer of ſufficient amends for ſuch treſpaſs before the action brought, whereupon, or upon ſome of them, the plaintiff or plantiffs ſhall be inforced to join iſſue, and the ſaid iſſue be found for the defendant, or the plaintiff ſhall be non-ſuited; the plaintiff ſhall be clearly barred from the said action, and all other ſuits concerning the same.

8. *And be it further enacted by the authority aforesaid,* That in all actions upon the case for ſlanderous words, to be sued or prosecuted by any perſon in the general or precinct

courts of this government, after the ratification of this act, if the jury, upon the trial of the iſſue in ſuch action, or the jury that ſhall inquire of the damages, do find or aſſeſs the damages under forty ſhillings, then the plaintiff or plaintiffs in ſuch action, ſhall have and recover only ſo much coſts as damages ſo given or aſſeſſed ſhall amount unto, without any further increaſe of the ſame: any law, ſtatute, uſage, or cuſtom to the contrary, in any wiſe, notwithſtanding.

CHAP. XXVIII.

Feme Coverts how to paſs Lands.

1. WHEREAS the legal way of paſſing lands where the eſtate is in a Feme covert, is by fine and recovery and it having been formerly practicable in this government (fines and recoveries not being in uſe here,) that ſales have been made by the huſband with the wife's conſent, and ſometimes by ſales from them both, and acknowledged in court, the wife being firſt privately examined by the court, whether ſhe acknowledge the ſame freely:

2. *Be it enacted by his excellency the Palatine, and the reſt of the true and abſolute lords proprietors of the province of Carolina, by and with the advice and conſent of the reſt of the members of the general aſſembly, now met at Little-river, for the north-eaſt part of the ſaid province, and it is hereby enacted by the authority of the ſame,* That all ſuch ſales which have at any time heretofore been made in manner and form aforeſaid, or which hereafter ſhall be made by the huſband and wife, and acknowledged before the chief-juſtice, or in the court of the precinct where the land lieth, the wife having been firſt privately examined, before the chief juſtice or one of the aſſociate judges, or by ſome member appointed by the court of the precinct, if ſhe acknowledgeth the ſame freely, ſhall be good and effectual againſt the huſband and wife, and their and every of their heirs and aſſigns and againſt all other perſons claiming by, from or under them, or any of them, and that to all intents and purpoſes, as if the ſame had been done by fine and recovery, or by any other way or means whatſoever.

3. *Provided always, and it is hereby meant and intended,* That nothing in this act contained, ſhall be conſtrued or meant to give any power or authority hereafter for cutting off intailed lands: any thing herein before contained to the contrary, in any wiſe, notwithſtanding.

CHAP. XXXVIII.

An act to appoint public regiſters, and to direct the method to be obſerved in conveying lands, goods, and chattels; and for preventing fraudulent deeds and mortgages.

5. *And be it further enacted by the authority aforeſaid,* That no conveyance or bill of ſale for lands, (other than mortgage) in what manner or form ſo ever drawn, ſhall be good and availa-

ble in law, unleſs the ſame ſhall be acknowledged by the vendor, or proved by one or more evidences, upon oath, either before the chief juſtice for the time being, or in the court of the precinct where the land lieth, and registered by the public regiſter of the precinct where the land lieth, and that all deeds ſo done and executed, ſhall be valid, and paſs eſtates in land, or right to other eſtate, without livery of ſeizen, atturnment, or other ceremony in the law whatſoever.

7. *Provided always*, That all deeds and conveyances of land lying within this government, made in foreign parts which shall be remitted hither, and proved before the chief juſtice, or court of the precinct where the land lieth, in manner as before directed; or which ſhall be perſonally acknowledged or proved before the chief magiſtrate of any city, town or corporation, within the king of Great-Britain's dominions, and an atteſtation thereof affixed thereto; or which ſhall be acknowledged or proved before the governor or commander in chief of any of his majeſty's plantations, and atteſted under the public ſeal, and registered in the aforeſaid office of the precinct where the land lieth, within one year after the arrival of ſuch deeds; ſhall be good and valid in law, to all intents and purpoſes, as if made and executed within this government.

8. And for the avoiding and aboliſhing of feigned, covinous, and fraudulent feoffments, gifts, grants, alienations, conveyances, bonds, ſuits, judgments, and executions, as well of lands and tenements, as of goods and chattels, which of late have been, and ſtill are deviſed and contrived, of malice, fraud, covin, or colluſion, to the end, purpoſe, and intent, to delay, hinder, and defraud creditors and others of their juſt and lawful actions, debts, and accounts: *It is hereby further enacted*, That all and every feoffment, gift, grant, alienation, bargain, and conveyance of lands, tenements hereditaments, goods and chattels, or any of them, by writing or otherwiſe; and all and every bond, ſuit, judgment, and execution, at any time had or made ſince the firſt day of January, Anno Dom. 1714, or at any time hereafter to be had or made, to or for any intent or purpoſe laſt before declared and expreſſed, ſhall be, from henceforward, deemed and taken, (only as againſt that perſon or perſons, his or their heirs, executors, adminiſtrators, and aſſigns, and every of them whoſe actions, ſuits, debts, accounts, damages, penalties, and forfeitures, ſhall releaſe by ſuch covinous or fraudulent devices and practices, as is aforeſaid or ſhall or might be in any wiſe diſturbed, hindered, delayed or defrauded) to be clearly and utterly void, fruſtrate and of no effect; any pretence, color, feigned conſideration expreſſing of uſe or any matter or thing to the contrary notwithſtanding

9. *And be it further enacted by the authority aforesaid*, That all and every the parties of ſuch feigned, covinous or fraudulent feoffments, gifts, grants, alienations, bargain, conveyance, bonds, ſuits, judgments, executions, or other things before expreſſed, and being privy and knowing of the same, or any of them which at any time after the firſt day of Auguſt next co-

1715 ming. ſhall wittingly and willingly, put in uſe, maintain, avow, juſtify, or defend the ſame or any of them as true, ſimple and done, had or made bona fide and upon good conſideration; or ſhall alien or aſſign any of the lands, tenements, goods, or things before mentioned. to him or them conveyed, as is aforeſaid or any part thereof; ſhall incur the forfeiture of the real value of the lands and tenements, goods and chattels; one moiety thereof to the lords proprietors, and the other moiety to the party grieved and intended to be defrauded thereby.

10. *Provided always and be it further enacted by the authority aforesaid*, That this act, nor any thing herein before contained. ſhall not extend or be conſtrued to impeach, defeat, or make void any conveyance or aſſurance, intereſt, limitation of uſe or uses of, in, to or out of any lands or tenements heretofore at any time had or made or hereafter to be bona fide made upon and for good conſiderations to any perſon or perſons whatſoever; any thing before mentioned to the contrary notwithſtanding.

11. And for the prevention of frauds by double mortgages and conveyances of lands, negroes, goods and chattels: *Be it further enacted by the authority aforesaid* That every mortgage of lands, tenements, goods or chattels which shall be firſt regiſtered in the regiſter's office of the precinct where the land lieth, or of goods and chattels where the mortgager liveth, ſhall be taken, deemed, judged, allowed of and held to be the firſt mortgage, and to be good, firm, ſubſtantial and lawful, in all courts of juſtice within this government; any former or other mortgage of the ſame lands, goods or chattels not before regiſtered notwithſtanding; unleſs such prior mortgage be registered within fifty days after the date.

12. *Provided always and be it further enacted by the authority aforesaid*, That in caſe more than one mortgage shall happen be made and be in force at one timeou theſame lands and tenements, goods and chattels the ſeveral mortgagees, which have not regiſtered their mortgages, their heirs, executors, adminiſtrators or aſſigns. shall have power to redeem any mortgage or mortgages regiſtered, upon paying the principal debt, intereſt, and coſts of ſuit, to the prior mortgagee or mortgagees, their heirs, executors, adminiſtrators or aſſigns; and as a puniſhment for ſuch intended fraud or covin, every person or or perſons which shall mortgage the ſame lands, tenements, goods or chattels a second time a former mortgage being in force and not discharged shall have no power or liberty of redemption in equity or otherwise.

13 *Provided alſo*, That nothing in this act contained shall be conſtrued, deemed or extended to bar any widow of any mortgager of such lands and tenements, from her right of dower to the ſaid land, who did not legally join with her huſband in ſuch mortgage or otherwise bar or exclude herſelf from ſuch dower or right.

15. *And be it further enacted by the authority aforesaid*, That the register of every precinct, when there is no clerk of the church in that precinct ſhall regiſter all births, marriages and

burials, within the precinct whereof he is regiſter ; and that every maſter and miſtress of a family who shall neglect to register the birth or death of any person born or dying within his or her houſe or plantation ; and every married man who ſhall neglect to remit to the said regiſter a certificate of his marriage, and cause the ſame to be regiſtered for longer than one month ; each maſter or miſtreſs or married man so neglecting shall forfeit and pay to the said regiſter one shilling per month for every month so neglected : provided the whole do not exceed twenty shillings.

16. *And be it further enacted by the authority aforesaid,* That all penalties and forſeitures in this act mentioned shall be recovered, by bill, plaint, or information in any court of record in this government ; wherein no injunction, protection or wager of law shall be allowed or admitted of.

CHAP. XLIV.

An act to appoint Toll-Books to be kept at or near Catherine's creek, in Chowan precinct, at the head of Pequimons precinct, and at the mouth of the North-west river, in Currituck precinct ; and to prevent persons from transporting or driving horses, cattle, or hogs, to other persons land.

4. *And be it further enacted by the authority aforesaid,* That if any perſon or perſons whatsoever, either inhabiting in Virginia or this government, ſhall after the ratification of this act, presume to drive, lead, transport, or carry any cattle horses, or hogs, to range upon any persons lands, ſhall forfeit and pay the sum of ten pounds ; and that no perſon or perſons whatsoever, inhabiting in this government, ſhall give leave to any other perſon or persons, either inhabitant or forreigner, to turn loose, drive, or put on his land, any horſes, cattle, or hogs, under the like penalty of ten pounds.

5. *And be it further enacted by the authority aforesaid,* That no foreigner whatsoever, either by consent or permiſſion of any other person or persons inhabiting in this government, or otherwise, ſhall presume or offer to drive, lead or bring into this government, any ſtock of cattle, hogs or horses, with intention to winter them here, or to deſtroy the herbage or mass ; under the penalty of twenty pounds : and it is hereby meant and intended, and ſo ſhall be underſtood and taken, that no person or persons ſhall be deemed an inhabitant that holds lands by entry, survey, or patent, but such as actually and conſtantly reſide on ſuch lands, or keep the same always tenanted, cultivated and improved.

6. *And be it further enacted by the authority aforesaid,* That the ranger of each precinct or division where such offence ſhall be committed, or on his default, the keeper of the toll-book, is hereby appointed to make diſtreſs of such cattle, hogs, or horſes, of any person or perſons offending ; the one half of which fine or forfeiture ſhall be to the ranger, or keep-

1715 er of the toll-book whichſoever ſhall make the diſtreſs, and the other half to the church wardens and veſtry for the uſe of the pariſh where the offence ſhall be committed.

7 *And be it further enacted by the authority aforesaid,* That all fines and forfeitures in this act mentioned, and not herein and hereby expeſſly and particularly mentioned to whom they ſhall be paid and how to be recovered, ſhall be, one half to the church wardens and veſtry, for the uſe of the pariſh where the offence ſhall be committed, and the other half to him or them that ſhall ſue for the same, in any court of record in this government, by bill, plaint, or information; wherein no eſſoin, protection, wager of law, or injunction, ſhall be allowed or admitted of.

CHAP. XLVII.

Private Burials prohibited.

1 BE *it enacted by his excellency the Palatine, and the rest of the true and absolute Lords proprietors of Carolina by and with the advice and consent of this present general assembly, now met at Little-river for the North-east part of the said province, and by the authority of the same it is hereby enacted,* That every planter, owner, attorney, or overſeer of every settled plantation in this government, or that hereafter ſhall be settled ſhall set apart a burial place, and fence the same, for the interring all such christian persons, whether bond or free, that ſhall die on their plantation; and that before the interring, there ſhall be called at leaſt three or four of the neighbors to view the corps: and if it appears to them that the perſon came to his or her death by any violent or unlawful means, notice thereof ſhall be given forthwith to the coroner of the precinct ſo that proceedings may be had thereon according to law: and in case any of the persons so called ſhall refuse to come and view, he or ſhe ſo refuſing, ſhall forfeit and pay the ſum of five ſhillings; to be levied by a warrant from the next justice of the peace, and paid to the chuch wardens, for the use of the poor of the ſaid pariſh.

2. *And be it further enacted by the authority aforesaid,* That if any perſon so dying ſhall be buried contrary to the true intent and meaning of this act, the person or persons occaſioning the same, ſhall forfeit and pay the sum of ten pounds; one third to the informer, one third to the lords proprietors, and the other third to the poor; to be recovered, by bill, plaint or information, in the general court of this government; wherein no eſſoin, protection, or wager of law, ſhall be allowed: unless such persons, in their lifetime, ſignified their deſire of being interred elsewhere; or unleſs the person concerned in such burial can make it appear, that so many of the neighborhood refuſed to come, on notice given them, to appear and view corps, or that he could not without great travel and expence, or damage to the corps, keep it any longer.

CHAP. XLVIII.

An act concerning proving wills, and granting letters of administration ; and to prevent frauds in the management of inteſtates eſtates.

4. *And be it further enacted by the authority aforesaid* That no person do preſume to enter upon the adminiſtation of any deceaſed perſons eſtate, until they have obtained such commiſſion of adminiſtration or letters teſtamentary under the penaltry of fifty pounds ; one half to the informer, and the other half to the governor or commander in chief for the time being ; to be recovered by bill, plaint, or information in the general court of his province ; wherein no eſſoin, protection, or wager of law, ſhall be allowed or admitted of.

5, *And be it further enacted by the authority aforesaid*, That the secretary or his deputy, ſhall not affix the colony ſeal, or ſubſign any letters teſtamentary, without taking the executor's oath, for performing the will of deceaſed ; unleſs certificates is made by a juſtice of the peace, that the ſame oath is taken before him ; or letters of adminiſtration, without the adminiſtrator has tsken the oath of an adminiſtrator, and has alſo given ſufficient bonds, with two or more able ſureties taken either before the ſecretary, or the juſtice of the precinct court, and returned into the secretary's office, (respect being had to the value of the eſtate,) with the condition in form and manner following, mutalis mutandis, *viz.*

THE Condition of this obligation in such, that if the above bounden A. B. Adminiſtrator of all and ſingular the goods and chattels, rights and credits, of C. D. deceased do make or cause to be made, a true and perfect inventory of all and ſingular the goods and chattels, rights, and credits of the said deceased, which have or ſhall come to the hands, poſſeſſion or knowledge of him the said A. B. or into the hands and poſſeſſion of any other person or persons for him, and the same so made, do exhibit, or cause to be exhibited, to the precinct court, where orders for adminiſtation paſſed, within ninety days after the date of these presents ; and the ſame goods, chattels, credits, and all other the goods, chattels, and credits of the ſaid deceased, at the time of his death or which at any time after ſhall come to the hands or poſſeſſion of the ſaid A. B. or into the hands or poſſeſſion of any other perſon or perſons for him do well and truly adminiſter according to law ; and further, do make, or cause to be made a true and juſt account of his ſaid admiſtration, within two years after the date of theſe preſents, and all the reſt and reſidue of the ſaid goods, chattels, and credits, which ſhall be found remaining upon the said adminiſtrator's account, the same being firſt examined and allowed of by the precinct court, ſhall deliver and pay unto ſuch person or persons, reſpectively, as the same ſhall be due unto pursuant to the true intent and meaning of this act ; and if it ſhall appear that any laſt will and teſtament was made by the deceased, and by the executor

1715 or executors therein named, do exhibit the ſame into court making requeſt to have it allowed and approved accordingly if the ſaid A. B. above bound being thereunto required, do render and deliver the ſaid letters of adminiſtration; (approbation of ſuch teſtament being firſt had and made,) in the ſaid court ; then this obligation to be void, and of none effect : or elſe to remain in full force and virtue.

8. *And be it further enacted by the authority aforesaid,* That where any perſon ſhall die inteſtate, adminiſtration ſhall be granted to the next of kin to the deceaſed, and for want of ſuch to the greateſt creditor proving his debt upon oath.

LAWS

OF NORTH CAROLINA.

At a General Aſſembly, held at Edenton, in Chowan Precinct, the Twenty-third day of November, One Thouſand Seven Hundred and Twenty-three.

CHAP. X.

An additional act, to an act, entituled An act concerning proving wills, and granting letters of adminiſtration ; and to prevent frauds in the management of inteſtates eſtates.

1. WHEREAS it has been cuſtomary for executors or adminiſtrators to bring the eſtate of deceaſed perſons to appraiſments, which appraisments have generally been much ſhort of the true value of the ſame ; to the great detriment of the creditors and kindred of the perſon deceaſed : for prevention of the like for the future ;

Be it enacted by his excellency the Palatine, and the rest of the true and absolute Lords Proprietors of Carolina, by and with the advice and consent of this present general assembly, now met at Edenton for the north-east part of the said province, and it is hereby enacted by the authority of the same, That from and after the ratification of this act, all and every executor or executrix, adminiſtrator or adminiſtratrix, ſhall, ſometime before or at the next precinct court, after his, her or their entering on the adminiſtration of any deceaſed perſon's eſtate, draw or cauſe to be drawn, a juſt, true and perfect inventory of all the goods and chattels of the deceaſed, (ſuch only excepted as by the afore mentioned former law are reſerved to remain to the uſe of orphans not of age till they arrive to full age, or ſuch as are by special legacies particularly bequeathed ;) which inventories ſhall be exhibited at the reſpective courts of the precinct in which the said goods are, and atteſted on oath by the perſons exhibiting the same ; and a copy of which inventory so exhibited and atteſted the executor or adminiſtrator ſhall cauſe to be affixed at the court house door of the precinct, during the court's ſitting, giving notice that on the — day of — (which shall be some days before the next ſucceeding court) the ſaid goods will be exposed to public sale; to the higheſt bidder, at the place where the said goods are reſerved and kept ; and the executors or adminiſtrators ſhall on oath render a true account of ſuch ſale to the court immediately succeeding such ſales, and ſhall accordingly be accountable for the same to such perſons as in the afore-mentioned former law is provided.

3 And in case the estate of any person deceaſed ſhall be so far indebted as that the debts cannot be discharged by the by the ſale of what are deemed periſhable commodities ; *Be it further enacted*, That then and in that case, the executor or administrator shall, and they are hereby empowered and required to expose to ſale in like manner as aforesaid by the directions of the precinct court, such part of, and so many of the unperiſhable goods, directed by the before mentioned act to be kept and reſerved in kind; as will pay and satisfy all such debts and demands.

4. And whereas some doubts have ariſen concerning the manner of recovery of legacies, filial portions, and other parts of deceased persons eſtates ; *Be it further enacted*, That it ſhall and may be lawful to recover the ſame by petition, according to the reſpective ſums sued for, in the General or Precinct Courts of this Province, as well as in any Eccleſiaſtical or other Court whatsoever.

CHAP. XI.

An act to reſtrain the keeping too great a Number of Horses and Mares, and for amending the Breed.

1. *BE it enacted by his Excellency the Palatine, and the rest of the true and absolute Lords Proprietors of Carolina, by and with the Advice and Consent of the rest of the General Assembly, now met at Edenton, for the North-East Part of the said Province, and it is hereby enacted by the Authority of the same*, That no perſon, being an inhabitant of this Government, and not having a Freehold of fifty Acres of Land, or poſſeſſed of, or occupying Lands or Tenements, ſhall keep, as Owner, a Stone-Horse or Horses, or unspayed Mare or Mares, or any more than one Gelding, or spayed Mare, to run at large.

2. *And be it further enacted by the Authority aforesaid*, That if any perſon, not qualified as aforesaid, ſhall keep any Horse or Mare running at large, except one Gelding, and one spayed mare, as aforeſaid, it ſhall and may be lawful for any person to take up the same, who is hereby obliged and directed to give notice thereof, in writing to the owner, within three

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days after such taking up ; which owner ſhall have liberty to appear at the next ſucceeding court of said county wherein he dwelleth, and if he can prove to the ſatisfaction of the ſaid court, that he is qualified according to the meaning of this Act, to keep such horse or mare so taken up, he ſhall have the same reſtored ; but if he ſhall fail in his proof aforesaid, he ſhall pay to the person taking up, twenty ſhillings for every horse or mare so taken up : And if the owner of ſuch horſe or mare ſhall refuse to pay the aforeſaid sum of twenty ſhillings, that then it ſhall and may be lawful for the taker up of such horse or mare to sell the same, at public vendue, to the higheſt bidder ; and one half of the money ariſing by such sale to take to himself, and the other half he ſhall deliver to the owner of ſuch horse or mare.

3. *And be it further enacted by the authority aforesaid*, That where the information of the taking up of such horses or unspayed mares as aforesaid, ſhall happen to be made to the owner or owners within less than ten days before the time of the ſitting of the court of the precinct where ſuch owner reſides, in ſuch case he ſhall have liberty to appear at the next succeeding court after such court, to prove himſelf a freeholder, or poſſeſſed of, or occupying lands or tenements.

L A W S

OF NORTH CAROLINA.

At a General Aſſembly held at Edenton in Chowan precinct, the twenty ſeventh of November in the year of our lord one thouſand ſeven hundred and twenty nine.

CHAP. V.

An additional act to an act for appointing toll-books, and for preventing people from driving horses, cattle or hogs, to other perſons lands.

WHEREAS in and by the ſaid act the remedy appointed for the recovering the penalty of twenty pounds for the inhabitants of any other government's cattle, horses, or hogs, ranging on peoples land in this government, is by diſtreſs to be made by the toll-keeper or ranger, but no method appointed for diſpoſing ſuch diſtreſs or proceedings thereon :

2. *Be it therefore enacted, &c.* That when such diſtreſs is made, or which may hereafter be made by the owner of the land, as well as the officers aforeſaid, the ſtock ſo diſtrained ſhall be kept four days, unleſs ſooner redeemed or replevied by the owner, who on paying the penalty and the reaſonable charges, ſhall have them at any time within four days after ſeiſure ; otherwiſe after the expiration of the ſaid four days they ſhall be appraised by three indifferent freeholders, to be appointed and sworn by ſome magiſtrate, and the property ſhall be immediately veſted in the perſon or perſons seizing the ſame, he or they returning the appraiſment to the precinct court, with an exact account of the marks or brands of such horſes, cattle, or hogs, which ſhall be ſet up at the court house the next court ; and any perſon proving the right to such cattle, horses or hogs at any of the four next courts in the ſaid precincts, after ſuch return of that appraiſement, having given the diſtrainer notice, ſhall have an order or judgment of the ſaid court for the overplus according to the appraisment the penalty and charges deducted.

3. *And be it further enacted by the authority aforeſaid,* That the penalty of ten pounds in the ſaid act for appointing toll-books, may be recovered by diſtreſs in like manner provided that no guardian or executor ſhall be excluded by the ſaid act from bringing any ſtock under their care on the land.

4. *And be it further enacted by the authority aforeſaid,* That the ſtock of any inhabitant of another government being found on peoples land in this government, contrary to the ſaid act, ſhall be deemed to be driven thither by the owners unleſs it

1729 can be proved they ſtrayed by ſome unavoidable accident, and were pursued and have not ranged above four days, provided such diſtreſs be made four miles to the ſouthward of the line betwixt this government and Virginia.

5. *And be it further enacted by the authority aforeſaid,* That no person within this government ſhall preſume to hunt, drive, or kill any ſtock, deer or game on any persons land within this government, except neighbors whose lands are very near adjacent, without leave firſt had and obtained from the owner of the ſaid land whereon he or they ſhall be found ranging or hunting, contrary to this act, under the penalty of five pounds for each and every time he or they may be found ranging; the one half to the owner of the land, the other half to the informer: to be recovered by a warrant from two juſtices, whereof one to be of the quorum; which ſaid juſtices are hereby impowered finally to hear and determine the ſame.

6. *And be it furher enacted by the authority aforeſaid,* That no ranger or other person shall range or hunt, kill or take up any unmarked cattle, horses or hogs on any persons lands without leave of the owner of such land or lands.

7. And whereas great damages are frequently done, by slaves being permitted to range or hunt with dogs or guns, for prevention whereof, *Be it enacted by the authority aforeſaid,* That it ſhall not be lawful for any slave on any pretence whatſoever to go, range or hunt on any perſons land other than his maſters with dog or gun or any weapon, unleſs there be a white man in his company; under the penalty of twenty ſhillings to be paid by his maſter for every offence to the owner of the land whereon such slave ſhall range or hunt; and that no slave ſhall travel from his maſter's land by himſelf to any other place unleſs he ſhall keep the moſt usual and accuſtomed road; and if any slave offend contrary hereto, it ſhall be lawful for the owner of the land whereon any slave ſhall be found to give him a ſevere whipping, not exceeding forty laſhes; and if any looſe or diſorderly or ſuſpected person be found drinking, eating or keeping company with slaves in the night time, ſuch person ſhall be apprehended and carried before a juſtice of the peace, and if he cannot give a good and ſatisfactory account of his behavior, such person ſhall be whipped at the diſcretion of the juſtice not exceeding forty laſhes.

8. And for the better ſuppreſſing of negroes travelling and aſſociating together in great numbers to the terror and damage of the white people; *Be it enacted by the authority aforeſaid,* That if any negroe or negroes ſhall preſume to travel in the night, or be found in the quarters or kitchens among other perſons negroes, such negroes so found ſhall receive correction not exceeding forty laſhes, as aforeſaid; and ſuch negroes in whose company they ſhall be found, ſhall receive correction not exceeding twenty laſhes.

9. *Provided always,* That nothing in this act ſhall be conſtrued to prevent any person from sending his slaves on his lawful buſineſs with a pass in writing; nor to hinder neighbors negroes intermarrying together, so that license being firſt had and obtained of their ſeveral maſters.

At a General Aſſembly, held at Newbern, the ſixth day of March, One Thouſand Seven Hundred and Thirty-eight.

CHAP. X.

An act to prevent killing deer at unſeaſonable times.

1. *Be it enacted, &c.* That it ſhall not be lawful to kill or deſtroy any deer, running wild in the woods, or unfenced ground, in this government, by gun, or any other ways or means whatſoever, between the fifteenth day of February, in each year, and the fifteenth of July ſucceeding, after the ratification of this act: and if any perſon, not being a ſervant or ſlave, ſhall kill any deer contrary to this act, and be thereof lawfully convicted, the ſaid perſon, for every deer ſo killed or deſtroyed, ſhall forfeit and pay the ſum of five pounds current money.

2. *And be it further enacted by the authority aforeſaid.* That any ſervant or ſlave by order or command of his or her maſter, miſtreſs, or overſeer, ſhall kill or deſtroy any deer contrary to this act, the maſter, miſtreſs, or overſeer giving ſuch orders or command, and being thereof lawfully convicted, for every deer ſo killed or deſtroyed, as aforeſaid, ſhall forfeit and pay the aforeſaid penalty of five pounds, as if the ſaid maſter, miſtreſs, or overſeer, had actually committed the offence.

3. *And be it further enacted by the authority aforeſaid,* That if any ſervant or ſlave, of his own accord, without any order or command from his or her maſter, miſtreſs, or overſeer, ſhall kill, deſtroy or buy any deer, contrary to this act and be thereof convicted, by the oath of one creditable witneſs before a juſtice of the peace of the county wherein the offence is committed, for every deer ſo killed or deſtroyed as aforeſaid, the ſaid ſervant or ſlave ſhall have and receive, on his or her bare back, thirty laſhes, well laid on, to be inflicted by order of the ſaid juſtice before whom the ſaid conviction ſhall be, unleſs ſome ſufficient perſon will become bound to pay, for the ſaid ſervant or ſlave, the ſum of five pounds currant money, within ſix months, in lieu of the ſaid puniſhment aforeſaid, to the churchwardens of the pariſh where the offence is committed, for the uſe directed by this act.

4. *And be it further enacted by the authority aforeſaid,* That one moiety of the forfeitures of this act, ſhall be to the churchwardens of the pariſh where ſuch offence is committed, for the uſe of the pariſh, and the other moiety to the informer; to be recovered with coſts by a warrant from any juſtice of the peace within this government; ſaving unto all free people, the right of appeal to the county court where the offence is committed: which ſaid court is finally to determine the ſame; wherein no eſſoin, protection, or wager of law, ſhall be allowed or admitted of.

At a General Aſſembly, held at Edenton, the fourth day of April, in the year of our lord one thouſand ſeven hundred and forty one.

CHAP. I.

An act concerning Marriages.

3. *And be it enacted by the authority aforeſaid,* That no miniſter or miniſters, juſtice or juſtices of the peace within any of the pariſhes of this government, ſhall celebrate the rites of matrimony between any perſons, or join them together as man and wife, without licenſe firſt had and obtained for that purpoſe, or three publications of banns; and if any miniſter ſhall go out of this government, and there, contrary to the true intent and meaning of this act, join together in matrimony, any perſon or perſons belonging to this government, without ſuch licenſe or publication of banns as is herein preſcribed, every miniſter ſo offending, ſhall incur the ſame penalties and forfeitures as if the ſame had been done in this government.

5. *And be it further enacted by the authority aforeſaid,* That if any miniſter, clerk, or reader, ſhall grant a falſe certificate, he or they ſo offending, ſhall be liable to ſuch puniſhment as in caſe of forgery at common law; and all ſuch offences ſhall be proſecuted, tried, and determined, in the general court of this province.

7. *And be it further enacted by the authority aforeſaid,* That if any miniſter or reader ſhall wittingly publiſh, or cauſe or ſuffer to be publiſhed, the banns of matrimony between any servants, or between a free perſon and a servent; or if any miniſter or juſtice of the peace ſhall wittingly celebrate the rites of matrimony between any ſuch, without a certificate from the maſter or miſtreſs of every such servant. that it is done by their conſent; he ſhall forfeit and pay five pounds, proclamation money, to the uſe of the maſter or owner of ſuch ſervant; to be recovered by action of debt, bill, plaint, or information; and every ſervant ſo married, without the conſent of his or her maſter or miſtreſs, ſhall, for his or her ſaid offence, serve his or her ſaid maſter or miſtreſs, their executors, adminiſtrators, or aſſigns, one whole year, after the time of service by indenture or cuſtom is expired.

13. And for prevention of that abominable mixture and ſpurious iſſue, which hereafter may increaſe in this government, by white men and women intermarrying with *indians*, negroes, muſtees, or mulattoes; *Be it enacted by the authority aforeſaid*, That if any white man or woman, being free, ſhall intermarry with an *indian*, negro, muſtee, or mulatto man or woman, or

any perſon of mixt blood, to the third generation, bond or free he ſhall, by judgment of the county court, forfeit and pay the ſum of fifty pounds, proclamation money, to the uſe of the pariſh.

14. *And be it further enacted by the authority aforesaid,* That no miniſter of the church of *England*, or other miniſter, or juſtice of the peace, or other perſon whatsoever within this government, ſhall hereafter preſume to marry a white man with an *indian*, negro, muſtee, or mulatto woman, or any perſon of mixt blood, as aforeſaid, knowing them to be so, upon pain of forfeiting and paying, for every such offence, the ſum of fifty pounds, proclamation money; to be applied as aforesaid.

15. *And be it further enacted by the authority aforesaid,* That the several fines and forfeitures in this act, which exceed the sum of twenty-ſix pounds thirteen ſhillings and four pence, proclamation money, ſhall be heard, tried, and determined, in the general court of this province; and all under the aforeſaid ſum, ſhall be heard, tried and determined, in the court of the county where the offence ſhall be committed.

16. *And be it further enacted by the authority aforesaid,* That all and every act and acts, and every clauſe and article thereof, heretofore made, ſo far as relates to any matter or thing whatsoever within the purview of this act, is and are hereby repealed and made void, to all intents and purpoſes, as if the ſame had never been made.

CHAP. V.

An Act *to appoint Constables.*

1. TO the end that Conſtables may be regularly appointed, throughout this Government:

2. We pray that it may be enacted, *And be it enacted by his Excellency* Gabriel Johnſton, *Esquire, Governor, by and with the Advice and Consent of his Majesty's Council, and the General Assembly of this Province, and it is hereby enacted by the Authority of the same,* That the courts of the ſeveral counties which now are, or hereafter ſhall be within this government, ſhall, at the court to be holden for each reſpective county in this government, next after the firſt day of January, nominate and appoint perſons of their ſaid county to be Conſtables within the ſame, which Conſtables ſo appointed, ſhall have the following oath adminiſtered to them; *that is to say,*

You ſhall ſwear that you will well and truly ſerve (the state of Tenneſsee) in the office of a conſtable, you ſhall ſee and cauſe the peace of (the state) to be well and duly preſerved and kept according to your power, you ſhall arreſt all ſuch perſons as in your ſight ſhall ride or go armed offenſively, or ſhall commit or make any riot, affray or other breach of the peace; you ſhall do your beſt endeavour, upon complaint to you made, to apprehend all felons, and rioters, or perſons riotouſly aſſembled; and if any ſuch offender ſhall make reſiſtance with force, you ſhall make hue and cry, and ſhall purſue them according to law; You ſhall faithfully, and without delay, execute and return all lawful precepts to you directed: You ſhall well and duly, according to your knowledge, power and ability, do and execute all other things belonging to the office of a conſtable, ſo long as you ſhall continue in this office.—*So help you God.*

3. *And be it further enacted by the authority aforeſaid,* That each and every conſtable ſo appointed, nominated and ſworn is and they are hereby inveſted with, and may execute the ſame power and authority, to all intents and purpoſes, as the conſtables within the kingdom of England are by law inveſted with and execute.

4. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons nominated and appointed Conſtable by the court of any of the counties within this government ſhall neglect or refuſe to qualify himſelf, according to the directions of this act, within ten days after notice of his nomination and appointment as aforeſaid, without he can ſhew ſufficient cauſe for his neglect, to be admitted by the juſtice, who ſhall or may grant their warrant to recover the penalties in this act mentioned, he ſhall forfeit and pay the ſum of fifty ſhillings proclamation money; to be recovered by a warrant from two juſtices of the peace in the county where ſuch perſon was appointed conſtable, and applied to the uſe of the county where ſuch conſtable is appointed; provided ſuch notice be in writing, ſigned by the clerk of the court, and ſerved by the ſheriff of the county, or preceding conſtable, on ſuch conſtable or conſtables as ſhall be appointed according to the direction of this act.

5. *Provided always,* That no perſon in commiſſion of any office, civil or military, or member of aſſembly, for the time being nor any one who has ſerved in any ſuch ſtation, nor any other who has ſerved as conſtable, within the ſpace of five years before, nor any perſon who is exempt, by the laws of England, ſhall be obliged to ſerve in the office of conſtable; any law, uſage, or cuſtom, to the contrary, notwithſtanding.

6. *And be it further enacted,* That any one juſtice of the peace of the county, ſhall, and he is hereby impowered, to adminiſter to the ſeveral conſtables hereafter to be appointed in his county, the oath directed by this act for their qualification.

7. *And be it further enacted by the authority aforeſaid,* That upon the death or removal of any conſtable out of the diſtrict for which he was appointed conſtable, it ſhall and may be lawful for the juſtices of the county court, in which ſuch diſtrict ſhall be, or any one of them, to appoint and ſwear another perſon, to be conſtable in the room and ſtead of the conſtable dead or removing out of his diſtrict as aforeſaid, who ſhall act until the next county court; the juſtices of which court ſhall then either continue the perſon appointed as aforeſaid, or nominate and appoint a new one.

8. *And be it further enacted by the authority aforeſaid,* That if any conſtable to whom any precept is directed, by any juſtice of the peace, ſhall refuſe or neglect to ſerve ſuch precept,

he ſhall, for every ſuch offence, on complaint of the party proſecuting, be fined, at the diſcretion of the court of which ſuch juſtice is a member; to be paid to the complainant.

9. And for the better executing any precept or mandate, in extraordinary caſes; *Be it enacted by the authority aforesaid,* That it ſhall and may be lawful, to and for any juſtice of the peace within this government, to direct any ſuch precept or mandate, in the abſence of, or for want of a conſtable, to any perſon, not being a party, who ſhall be obliged to execute, or endeavour in the beſt manner he can, to execute the ſame, under the like penalty any conſtable ſhall be liable to, by virtue of this act; to be recovered and applied as aforeſaid.

10. *And be it enacted by the authority aforesaid,* That every conſtable within this province, appointed and qualified, as herein before is directed, ſhall be, and is hereby exempted from all provincial, county, and pariſh taxes, for himſelf only, and from working on the roads, for and during the year he ſhall be conſtable; any law, uſage, or cuſtom, to the contrary, notwithſtanding.

11. *And be it further enacted by the authority aforesaid,* That all and every other act and acts, and every clauſe and article of the ſame, heretofore made, ſo far as relates to the appointing of conſtables, is and are hereby repealed and made void, to all intents and purpoſes, as if the ſame had never been made.

CHAP. VIII.

An act to prevent ſtealing of Cattle and Hogs, and altering and defacing marks and brands, and miſmarking and miſbranding Horſes, Cattle and Hogs, unmarked and unbranded.

WHEREAS many wicked men in this province, being too lazy to get their living by honeſt labour, make it their buſineſs to ride in the woods and ſteal cattle and hogs, and alter and deface the marks and brands of others, and miſmark and miſbrand horſes, cattle, and hogs, not marked or branded: And whereas the laws in force in this province are, by experience, found not to be ſufficient to remedy thoſe evils;

2. We pray that it may be enacted, *And be it enacted by his Excellency* Gabriel Johnſton, *Esquire, Governor, by and with the advice and consent of his Majesty's council, and General Assembly of this province, and it is hereby enacted by the authority of the same,* That if any free perſon or perſons ſhall ſteal any neat cattle or hog, or ſhall alter or deface the mark or brand of any other perſon or perſons horſe, neat cattle, or hog, ſuch perſon or perſons, being thereof lawfully convicted, ſhall, for every neat cattle or hog he or they ſhall ſteal; or for every horſe, mare, colt, neat cattle, or hog, whoſe mark or brand he or they ſhall alter or deface, over and above the value of ſuch neat cattle or hog ſo ſtole; or for every horſe, mare, colt, neat cattle, or hog, whoſe mark or brand he or they ſhall alter or

deface ; forfeit and pay the ſum of ten pounds, proclamation money ; to be recovered by action of debt, in any court of record within this province, (wherein no eſſoin, injunction, protection, or wager of law, ſhall be allowed or admitted of,) by the owner of ſuch horſe, mare, colt, neat cattle, or hog, that ſhall be ſtolen, or the mark or marks, brand or brands, ſo altered or defaced, provided he proſecute for the ſame within ſix months after diſcovery of the fact committed ; and after that time, any perſon may, as well as the owner, ſue for and recover the ſame, provided ſuch proſecution is commenced within one year after diſcovery of the fact committed ; and the offender ſhall, over and above the ſaid fine, receive forty laſhes on his bare back, well laid on ; and for the ſecond offence, ſhall pay the fine above-mentioned, and ſtand in the pillory two hours, and be branded in the left hand, with a red hot iron, with the letter T : And if any perſon or perſons ſhall miſmark or miſbrand any unbranded or unmarked horſe, mare, or colt, neat cattle, or hog, not properly his or their own, he or they ſhall forfeit and pay the ſum of ten pounds, proclamation money, over and above the value thereof, for every ſuch horſe, mare, colt, neat cattle, or hog, ſo miſmarked or miſbranded ; to be recovered as aforeſaid.

3. And to prevent the concealing ſuch offences, *Be it enacted by the authority aforesaid*, That if any perſon or perſons ſhall ſee any other perſon or perſons committing any of the crimes aforeſaid, and ſhall not diſcover the ſame, in ten days to ſome magiſtrate, then, and in ſuch caſe, ſuch perſon or perſons, for not diſcovering the ſaid crime, ſhall forfeit the ſum of five pounds, proclamation money, for every time he ſhall ſee the ſaid crime or crimes, or any of them, committed ; to be recovered by any perſon or perſons who will ſue for the ſame, by action of debt, in any court of record in this province ; wherein no eſſoin, protection, injunction, or wager of law, ſhall be allowed or admitted of.

4 And becauſe it is difficult to convict any perſon who has ſeen ſuch crimes committed, if he will deny the ſame ; *Be it further enacted by the authority aforesaid*, That it ſhall be ſufficient evidence to convict any perſon who has ſeen any of the aforeſaid crimes committed, if it be proved that he has told any other perſon that he did ſee the ſaid crimes, or any of them, committed.

5. Whereas, by common cuſtom in this province of killing of cattle and hogs in the woods, great opportunities are given to ſteal the cattle and hogs of other people ; *Be it therefore enacted by the authority aforesaid*, That if any perſon hereafter ſhall kill any one or more neat cattle or hogs in the woods, he ſhall, within two days, ſhew the head and ears of ſuch hog or hogs, and the hide, with the ears on, of ſuch neat beaſt or cattle, to the next magiſtrate, or to two ſubſtantial freeholders, under the penalty of five pounds, proclamation money ; to be recovered, by any perſon who will ſue for the ſame, by action of debt, bill, plaint, or information, in any court of record in this province ; wherein no eſſoin, protection, injunction, or wager of law, ſhall be allowed.

6. *And be it further enacted by the authority aforeſaid*, That every perſon in this province, who hath any horſes, chattle, or hogs, ſhall have an ear-mark and brand, different from the ear-mark and brand of all other perſons; which ear-mark and brand he ſhall record, with the clerk of the county where his horſes, cattle, or hogs are, if not already recorded; and that he ſhall brand all horſes with the ſaid brand, from eighteen months old, and upwards, and ear-mark all his hogs, from ſix months old, and upwards, with the ſaid ear-mark; and ear-mark or brand all his cattle, from twelve months old, and upwards, with the ſaid ear-mark or brand: And if any diſpute ſhall ariſe about any ear-mark or brand, the ſame ſhall be decided by the book of the clerk of the county court where ſuch cattle, horſes, or hogs are.

7. *And be it further enacted by the authority aforeſaid*, That when any perſon ſhall buy any neat cattle from another, or come to the ſame by gift, will, or any other lawful means, that then, and in ſuch caſe, the perſon who has gained the ſame by any of the ways aforeſaid, ſhall, within eight months, brand the aforeſaid neat cattle with his own proper brand, in the preſence of two creditable witneſſes, a certificate of which ſhall be ſigned by the ſaid witneſſes.

8. *And be it further enacted by the authority aforeſaid*, That this act ſhall be publicly read, by the clerk of every county court in this province, at leaſt, twice every year, viz. at the firſt court after Eaſter, and the firſt court after Auguſt, in the morning, on the ſecond day of the court, in open court, under penalty of twenty ſhillings, proclamation money; to be recovered by any perſon, by a warrant, under the hands and ſeals of any two juſtices of the peace of the county, to the uſe of the informer.

9. *And be it further enacted by the authority aforeſaid*, That if any ſtrange cattle ſhall go into the cowpen of any perſon in this province, the owner of that cowpen, if he reſides there, or the overſeer or manager, where the owner does not reſide, ſhall be obliged to give public notice thereof, by affixing a note of the fleſh-marks, and ear-marks, and brand, of all ſuch ſtrange cattle as ſhall be at his pen, at the church doors of the pariſh where the ſaid cowpen is, or where there is no church, at the court-houſe door, in one month after ſuch cattle ſhall come to his pen, under the penalty of twelve ſhillings, proclamation money, for every beaſt that he ſhall neglect to give ſuch notice of; to be recovered in the ſame manner, and to the ſame uſe, as the fine laſt mentioned.

10. *And be it further enacted by the authority aforeſaid*, That if any negro, indian, or mulatto ſlave, ſhall kill any horſe, cattle, or hog, belonging to any perſon whatſoever, without the conſent of the owner or owners thereof, or ſhall ſteal, miſbrand or miſmark any horſe, cattle, or hog, ſuch ſlave or ſlaves ſhall, for the firſt offence, ſuffer both his ears to be cut off, and be publicly whipt, at the diſcretion of the juſtices and freeholders before whom he or ſhe ſhall be tried; and for the ſecond offence, ſhall ſuffer death: And the trial and conviction of the ſaid ſlave or ſlaves, ſhall be in ſuch manner as is preſcrib-

ed by an act of Aſſembly, entitled, An act concerning ſervants and ſlaves.

11. *And be it further enacted by the authority aforeſaid,* That all and every other act and acts, and every clauſe and article thereof, heretofore made, ſo far as relates to the preventing the ſtealing of horſes, cattle, and hogs, and altering and defacing the marks and brands, and miſmarking and miſbranding the ſame, or to any other matter or thing whatſoever, within the purview of this act, is and are herebv repealed and made void, to all intents and purpoſes, as if the ſame had never been made.

CHAP. XI.

An act for reſtraining the taking of exceſſive Uſury.

FORASMUCH as the ſettling of intereſt at a reaſonable rate will greatly tend to the advancement of trade, and improvement of lands, by good huſbandry, with many other conſiderable advantages to this province: And whereas divers perſons of late, have taken great and exceſſive ſums for the loan of money, goods, and merchandizes, to the great diſcouragement of induſtry, in the huſbandry, trade, and commerce of this province:

2. We pray that it may be enacted, *And be it enacted by his Excellency* Gabriel Johnſton, *Eſquire, Governor, by and with the advice and conſent of his Majeſty's Council, and General Aſſembly of this province, and it is hereby enacted by the authority of the ſame,* That no perſon or perſons whatſoever, from and after the firſt day of May, which ſhall be in the year of our Lord one thouſand ſeven hundred and forty-one, upon any contract to be made after the ſaid firſt day of May, ſhall, directly or indirectly, take, for loan of any monies, wares, merchandize, or commodities whatſoever, above the value of ſix pounds, by way of diſcount or intereſt, for the forbearance of one hundred pounds, for one year, and ſo after that rate for a greater or leſſer ſum, or for a longer or ſhorter time; and that all bonds, contracts, and aſſurances whatſoever, made after the time aforeſaid, for the payment of any principle or money to be lent, or covenanted to be performed, upon or for any uſury, whereupon or whereby there ſhall be reſerved or taken above the rate of ſix pounds in the hundred, as aforeſaid. ſhall be utterly void: And that all and every perſon or perſons whatſoever, which, after the time aforeſaid, upon any cnntract to be made, after the ſaid firſt day of May, ſhall take, accept, and receive, by way or means of any coriupt bargain, loan, exchange, ſhift, or intereſt, of any monies, wares, merchandizes, or other thing or things whatſoever, or by any deceitful ways or means, or by any diſcount, covin, device, or deceitful conveyance, for the forbearing or giving day of payment, for one whole year, of or for their money or other thing, above the ſum of ſix pounds for the forbearing of one hundred pounds for a year, and ſo after that rate for a greater or leſſer ſum, or for a longer or

ſhorter time, ſhall forfeit and loſe, for every ſuch offence, the double value of the monies, wares, merchandizes, and other things ſo lent, bargained, exchanged, or ſhifted; the one moiety of all which forfeitures to be to our ſovereign lord the king, his heirs and ſucceſſors, for and towards the ſupport of this government, and the contingent charges thereof, and the other moiety to him or them that will ſue for the ſame, by action of debt, bill, plaint, or information, in any court of record within this province: wherein no eſſoin, protection, or wager of law, ſhall be allowed or admitted of.

CHAP. XIII.

An act to prevent the taking away Boats, Canoes, or Pettiaguas, from landings, or eslewhere, without leave.

TO prevent taking boats, canoes, and pettiaguas, from landings, or elſewhere, without leave:

2. We pray that it may be enacted, *And be it enacted by his Excellency* Gabriel Johnſton, *Eſquire, Governor, by and with the advice and conſent of his Majeſty's Council, and General Aſsembly of this province, and it is hereby enacted by the authority of the ſame,* That any perſon or porſons who, after the Ratification of this act, ſhall take away from any landing or other place where the ſame ſhall be, any boat, canoe, or pettiagua, belonging to, or in the cuſtody of any perſon whatſoever, without the conſent and leave of the owner or poſſeſſor of ſuch boats, canoes, or pettiagua, or ſhall looſe, unmoor, or turn ſuch boat, canoe, or pettiagua adrift, ſuch offender or offenders ſhall ſeverally forfeit and pay, to the party who ſhall own, or in whoſe cuſtody and poſſeſſion ſuch boat, canoe, or pettiagua was, the ſum of twenty ſhillings, proclamation money; to be recovered by a warrant from any juſtice of the peace within the county where the offence ſhall be committed, who is hereby impowered and required to hear and determine all ſuch offences. And if any offender or offenders ſhall, after conviction, neglect or refuſe to pay the ſaid ſum of twenty ſhillings, proclamation money, in ſuch caſe, it ſhall and may be lawful for the ſaid juſtice, by his warrant, to commit ſuch perſon to the goal of the county where he ſhall remain until he ſhall have paid the ſame, and the accruing coſts.

3. *Provided always,* That nothing in this act ſhall be underſtood or conſtrued to debar any perſon from his or her action at common law, for any damage ſuſtained, by reaſon of any boat, canoe, or pettiagua, to them belonging, ſo taken or unlooſed, unmoored or turned adrift, from any landing or other place where the ſame was left, againſt any perſon whatſoever, notwithſtanding ſuch perſon ſhall have paid the penalty by this act inflicted; any thing herein contained, or any law, uſage or cuſtom, to the contrary, notwithſtanding.

4. *And be it further enacted by the authority aforeſaid,* That if any white ſervant, negro or ſlave, ſhall offend againſt this act, and be thereof convicted, and the maſter, miſtreſs or

owner of ſuch white ſervant, negro or ſlave, ſhall refuſe to pay the ſaid ſum of twenty ſhillings, proclamation money, ſuch ſervant or ſlave ſhall ſuffer correction, by whipping, at the diſcretion of the magiſtrate, not exceeding thirty-nine laſhes;

5. *Provided always, and be it enacted,* That neither this act, nor the penalties thereof, ſhall be conſtrued to extend to any perſon who ſhall preſs any boat, canoe or pettiagua, by public authority, or to any perſon who ſhall ſeize his own proper boat, canoe or pettiagua, or to any other perſon or perſons, being lawfully empowered ſo to do by the owner, from any place or landing, or from any perſon in whoſe cuſtody he ſhall find the ſame, or to any ſervant or ſlave taking any boat, canoe or pettiagua, from any landing or other place, by order of his or her maſter, miſtreſs or overſeer.

6. *And be it further enacted,* That if any maſter, miſtreſs or overſeer, ſhall order any ſervant or ſlave, belonging to them, or under the care of any of them, to take from any landing, or other place, any boat, canoe or pettiagua, contrary to the intent and meaning of this act, ſuch maſter, miſtreſs or overſeer of ſuch ſervant or ſlave ſo offending, ſhall be liable to the forfeitures and penalties of this act, as if they, in their proper perſon, had done the ſame; any thing herein before contained, to the contrary, notwithſtanding.

7. *And be it further enacted by the authority aforeſaid,* That all and every other act and acts, and every clauſe and article thereof, ſo far as relates to prevent the taking boats, canoes or pettiaguas, from landings, or elſewhere, without leave, is and are hereby repealed and made void, to all intents and purpoſes, as if the ſame had never been made.

CHAP. XIV.

An act for the better obſervation and keeping of the Lord's day, commonly called Sunday; and for the more effectual ſuppreſſion of vice and immorality.

WHEREAS in well regulated governments, effectual care is always taken, that the day ſet apart for public worſhip, be obſerved and kept holy, and to ſuppreſs vice and immorality: Wherefore,

2. We pray that it may be enacted, *And be it enacted by his Excellency* Gabriel Johnſton, *Eſquire, Governor, by and with the Advice and Conſent of his Majeſty's Council, and the General Aſſembly of this Province, and it is hereby enacted by the Authority of the ſame,* That all and every perſon or perſons whatſoever, ſhall, on the lord's day, commonly called Sunday, carefully apply themſelves to the duties of religion and piety; and that no tradeſman, artificer, planter, labourer, or other perſon whatſoever, ſhall, upon the land or water, do or exerciſe any labour, buſineſs or work, of their ordinary callings, (works of neceſſity and charity only excepted,) nor employ themſelves either in hunting, fiſhing or fowling, nor uſe any game, ſport or play, on the lord's day aforeſaid, or any part thereof, upon pain that

every perſon ſo offending, being of the age of fourteen years, and upwards, ſhall forfeit and pay the ſum of ten ſhillings, proclamation money.

3. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons ſhall profanely ſwear or curſe, in the hearing of any juſtice of the peace, or ſhall be convicted of profanely ſwearing and curſing, by the oath of one or more witneſs or witneſſes, or confeſſion of the party before any juſtice or juſtices of the peace, every ſuch offender ſhall forfeit and pay the ſum of two ſhillings and ſix pence, of the like money, for every oath or curſe: And if any perſon, executing any public office, ſhall prophanely ſwear or curſe, being firſt convicted, as aforeſaid, ſuch perſon ſhall forfeit and pay the ſum of five ſhillings, of the like money, for each and every oath or curſe.

4. *And be it further enacted,* That if any perſon or perſons ſhall prophanely ſwear and curſe, in the preſence of any court of record in this government, ſuch offender or offenders ſhall immediately pay the ſum of ten ſhillings, of the like money, for each and every oath or curſe; to be depoſited in the hands of the chairman of the ſaid court, and by him accounted for and paid, as herein after is directed; or to ſit in the ſtocks, not exceeding three hours, by order of ſuch court.

5. *And be it further enacted by the authority aforeſaid,* That every perſon convicted of drunkenneſs, by view of any juſtice of the peace, confeſſion of the party, or oath of one or more witneſs or witneſſes, ſuch perſon ſo convicted, ſhall, if ſuch offence was committed on the lord's day, forfeit and pay the ſum of five ſhillings, of the like money; but if on any other day, the ſum of two ſhillings and ſix pence, for each and every ſuch offence.

6. And for the better execution of all and every of the foregoing orders, *Be it further enacted,* That all and every juſtice and juſtices of the peace, within his or their reſpective county, ſhall have full power and authority to convene before him or them, any perſon or perſons who ſhall offend in any of the particulars before mentioned, in his or their hearing, or on other legal conviction of any ſuch offence, and to impoſe the ſaid fine or penalty for the ſame, and to reſtrain or commit the offender until it be ſatiſfied, or to cauſe the ſame to be levied by diſtreſs and ſale of the offenders goods, returning the overplus, if any, to the owner: And in caſe any ſuch offender be unable to ſatiſfy ſuch fine, to cauſe him to be put in the ſtocks, not exceeding three hours.

7. *Provided always,* That all informations againſt the aforeſaid offences, ſhall be made within ten days after such offence or offences committed, and not after.

8. *And be it further enacted by the authority aforeſaid,* That all fines accruing and becoming due by virtue of this act, ſhall be levied as ſoon as may be after conviction, one half to the informer, the other half to the uſe of the pariſh where ſuch offence ſhall be committed; and the chairman and juſtices of the ſeveral courts of the ſeveral counties of this province, are hereby directed to account for, upon oath, and pay ſuch fine

or fines as ſhall or may by them, or any of them, be received, by virtue of this act, to the churchwardens of the reſpective pariſhes of this government, at leaſt once a year, when the ſame ſhall be demanded by the churchwardens; under the penalty of paying the ſum of twenty pounds, proclamation money, for every refuſal, to be levied and applied as aforeſaid.

9. *And be it further enacted by the authority aforeſaid*, That if any perſons commit fornication, upon due conviction, each of them ſhall forfeit and pay twenty-five ſhillings, proclamation money, for each and every ſuch offence; to be recovered, and applied to the ſame uſe, as the other fines in this act.

10. *And be it further enacted*, That any two juſtices of the peace, upon their own knowledge, or information made to them, that any ſingle woman within their county is big with child, or delivered of a child or children, may cauſe ſuch woman to be brought before them, and examine her upon oath, concerning the father; and if ſhe ſhall refuſe to declare the father, ſhe ſhall pay the fines in this act before mentioned, and give ſufficient ſecurity, to keep ſuch child or children from being chargeable to the pariſh, or ſhall be committed to priſon, until ſhe ſhall declare the ſame, or pay the fine aforeſaid, and give ſecurity as aforeſaid: But in caſe ſuch woman ſhall upon oath before the ſaid juſtices, accuſe any man of being the father a baſtard child or children, begotten of her body, ſuch perſon ſo accuſed ſhall be adjudged the reputed father of ſuch child or children, and ſtand charged with the maintenance of the ſame, as the county court ſhall order, and give ſecurity, to the juſtices of the ſaid court, to perform the ſaid order, and to indemnify the pariſh where ſuch child or children ſhall be born, free from charges for his, her or their maintenance; and may be committed to priſon until he find ſecurities for the ſame, if ſuch ſecurity is not by the woman before given.

11. *And be it further enacted*, That the ſaid two juſtices of the peace at their diſcretion, may bind to the next county court, him that is charged, on oath as aforeſaid to have begotten a baſtard child which ſhall not be then born; and the county court may continue ſuch perſon upon ſecurity until the woman ſhall be delivered, that he may be forthcoming when the child is born.

12. *And be it further enacted by the authority aforeſaid*, That this act ſhall be publicly read two ſeveral times in the year in all pariſh churches and chapels, or for want of ſuch in the place where divine ſervice is performed in every pariſh within this government by the miniſter, clerk or reader of each pariſh immediately after divine ſervice, that is to ſay, on the firſt or ſecond ſunday in April and on the firſt or ſecond ſunday in September, under the penalty of twenty ſhillings proclamation money for every ſuch omiſſion or neglect; to be levied by a warrant from a juſtice, and applied to the uſe of the pariſh where the offence ſhall be committed; and the churchwardens of every pariſh are hereby required to provide a copy of this act, at the charge of the pariſh.

13. *Provided always*, That nothing herein contained ſhall be conſtrued to exempt any clergyman in this government, who

ſhall be guilty of any of the crimes herein before mentioned, from ſuch further puniſhment as might have been inflicted on him for the ſame before the making of this act; any thing herein contained to the contrary notwithſtanding.

14. *And be it further enacted by the authority aforeſaid,* That all and every other act or acts and every clauſe and article thereof) heretofore made ſo far as relates) to the ſuppreſſion of vice or reſtraint and puniſhment of wicked and diſſolute perſons, or any matter or thing within the purview of this act, is and are hereby repealed and made void to all intents and purpoſes as if the ſame had never been made.

CHAP. XVI.

An act for aſcertaining the damage upon proteſted bills of exchange.

FOR aſcertaining the damage upon proteſted bills of exchange, We pray that it may be enacted, *And be it enacted by his Excellency* Gabriel Johnſton, *Eſquire, Governor, by and with the advice and conſent of his Majeſty's council, and General Aſſembly of this province, and by the authority of the ſame,* That where any bill of exchange is, or ſhall hereafter be drawn for the payment of any ſum of money, in which the value is or ſhall be expreſſed to be received, and ſuch bill is or ſhall be proteſted, for non-acceptance or non-payment, the ſame ſhall carry intereſt from the date thereof, after the rate of ten per cent. per annum, until the money drawn for ſhall be fully ſatisfied and paid.

2. But leaſt any perſon having any ſuch bill, ſhould, for the ſake of the intereſt, delay negociating the ſame, or if after it ſhall be proteſted, ſhall not demand payment thereof of the drawer or indorſer, *It is further enacted and declared,* That no perſon whatſoever ſhall pay more than eighteen months intereſt, from the date of any ſuch bill till it ſhall be preſented proteſted to the drawer or indorſer thereof.

3. *And be it furher enacted by the authority aforeſaid,* That where any bill drawn before the making of this act, or which ſhall hereafter be drawn, is or ſhall be proteſted as aforeſaid, there ſhall be paid unto ſuch perſon or perſons as ſhall have right to demand the ſame, for his, her or their damage in that behalf ſuſtained, after the rate of fifteen per cent. for the ſum expreſſed in the ſaid bill, together with the coſts and charges of the proteſt and no more.

4. *And be it further enacted by the authority aforeſaid,* That it ſhall and may be lawful for any perſon or perſons, having a right to demand any ſum of money due upon a proteſted bill of exchange, to commence and proſecute an action for principal, intereſt and charges or proteſt againſt the drawer and indorſers jointly or againſt either of them ſeperately, and judgment ſhall and may be given for ſuch principal draught and charges, and intereſt after the rate of ten per cent. per annum, as aforeſaid, to the time of ſuch judgment.

5. *And be it further enacted by the authority aforeſaid*, That all and every other act and acts, and every clauſe and article thereof heretofore made, ſo far as relates to any matter or thing whatſoever within the purview of this act, is and are hereby repealed and made void, to all intents and purpoſes, as if the ſame had never been made.

C H A P. XVII.

An act for regulating Weights and Meaſures.

8. *And be it further enacted by the authority aforeſaid*, That the ſtandard-keeper of each and every county in this government, is hereby empowered and required, with the aſſiſtance of a conſtable, (who is hereby commanded, upon notice, to attend him, upon information made to him of any perſon or perſons keeping or having in his or their houſe or cuſtody, any ſteelyards, weights or meaſures, which have been altered, leſſened or ſhortened, ſince they were tried and ſealed by the ſtandard, or ſhall be ſuſpected of buying, ſelling or bartering by ſuch falſe weights and meaſures,) to ſearch the houſes or other ſuſpected places of ſuch offender, for any ſuch weights or meaſures ſo falſified; and if upon ſearch, any ſuch falſe weights or meaſures ſhall be found, he ſhall charge a conſtable with the owner of them, or the perſon uſing them, who ſhall forthwith convey him, her or them, before any juſtice of the peace, who is hereby directed to bind him, her or them over to the next court to be held for the county where the offence ſhall be committed; and the ſaid offence ſhall be laid before the grand jury, by the king's attorney-general or his deputy, and for want of them, by any perſon the county court ſhall think fit to appoint, and ſhall be cognizable by the ſaid grand jury, either by indictment or preſentment; and if upon trial by a petit jury, ſuch offender or offenders ſhall be found guilty, the county court ſhall fine each and every perſon ſo convicted, in any ſum not exceeding twenty-five pounds proclamation money; one third part thereof to the informer, one third part to the ſtandard-keeper, and one third part thereof to be paid to the juſtices of the county, to be applied to the uſe of the county where the offence ſhall be committed; and ſhall commit the offender to gaol until the ſame ſhall be paid: And further, if it appear to the county court, by the verdict of the petit jury, that the offender altered, leſſened or ſhortened his or her ſteelyards, weights or meaſures, or cauſed the ſame to be done, or uſed ſuch ſteelyards, weights or meaſures knowingly, after they were ſo altered, leſſened or ſhortened, with an intent to defraud any perſon; in ſuch caſe the court ſhall, beſides and notwithſtanding the ſaid fine, ſentence ſuch offender to ſtand publicly, during the ſitting of court, two hours in the pillory, with his offence written over his or her head: Any law, cuſtom or uſage to the contrary, notwithſtanding.

9. *And be it further enacted by the authority aforeſaid*, That the naval officer of each and every port within this govern-

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ment, ſhall affix up in a public part of his office, and there conſtantly keep affixed, an advertiſement of this act, that traders coming into this government, may have notice thereof, upon pain of forfeiting five ſhillings, proclamation money, for every twenty-four hours the ſame ſhall be neglected ; to be recovered by a warrant from any juſtice of the peace of the county where the offence ſhall be committed, by any perſon who ſhall ſue for the ſame, and applied, one half to the informer and the other half to the uſe of the ſaid county.

11. *And be it further enacted by the authority aforeſaid,* That all and every other act and acts, and every clauſe and article thereof, heretofore made, ſo far as relates to weights and meaſures, or any other matter or thing within the purview of this act, is and are hereby repealed and made void, to all intents and purpoſes, as if the ſame had never been made.

C H A P. XXIV.

An act concerning Servants and Slaves.

BE it enacted by his Excellency Gabriel Johnſton, *Eſquire, Governor, by and with the Advice and Conſent of his Majeſty's Council and General Aſſembly of this Province, and it is hereby enacted by the Authority of the ſame,* That no perſon whatſoever, being a chriſtian or of chriſtian parentage, who from and after the ratification of this act, ſhall be imported or brought into this province, ſhall be deemed a ſervant for any term of years, unleſs the perſon importing him or her ſhall produce an indenture, or ſome ſpecialty or agreement, ſignifying, that the perſon ſo imported did contract to ſerve ſuch importer, or his aſſigns, any number of years, in conſideration of his or her paſſage, or ſome other conſideration therein expreſſed ; and upon any conteſt ariſing between the maſter of any veſſel, or other perſon importing any ſervant or ſervants without indenture, upon any bargain or ſpecialty as aforeſaid, the ſame ſhall be determined at the next county court to be held for the county where the ſaid ſervant or ſervants ſhall be imported, the juſtices of which court are hereby impowered to hear and determine the ſame, in a ſummary way ; and ſuch determination or judgment ſhall be concluſive and binding on the importer or ſervant or ſervants, either for the diſcharge of the ſaid ſervant or ſervants, or to oblige him, her or them to ſerve the importer, or his aſſigns, as the matter ſhall appear.

2. *And be it further enacted by the authority aforeſaid,* That if any chriſtian ſervant, whether he or ſhe be a ſervant by importation or otherwiſe, ſhall at any time or times, abſent him or herſelf from the ſervice of his or her maſter or miſtreſs, without licence firſt had, he or ſhe ſhall ſatisfy and make good ſuch loſs of time, by ſerving, after their time of ſervice by indenture or otherwiſe is expired, double the time of ſervice loſt or neglected by ſuch abſence ; and alſo ſuch longer time as the county court ſhall think fit to adjudge, in conſideration of any further charge or damage the maſter or miſtreſs of ſuch

1741 ſervant may have ſuſtained, by reaſon of his or her abſence as aforeſaid.

3. *And be it further enacted by the authority aforeſaid,* That if any chriſtian ſervant ſhall lay violent hands on his or her maſter or miſtreſs, or overſeer, or ſhall obſtinately refuſe to obey the lawful commands of any of them, upon proof thereof by one or more evidences before any juſtice of the peace, he or ſhe ſhall for every ſuch offence, ſuffer ſuch corporal puniſhment as the ſaid juſtice ſhall think fit to adjudge, not exceeding twenty-one laſhes.

4. And as an encouragement for chriſtian ſervants to perform their ſervice with fidelity and chearfulneſs; *Be it further enacted by the authority aforeſaid,* That all maſters and owners of any ſervant or ſervants, ſhall find and provide for their ſervant or ſervants, wholeſome and competent diet, cloathing and lodging, at the diſcretion of the county court, and ſhall not, at any time, give immoderate correction, neither ſhall at any time, whip a chriſtian ſervant naked, without an order from a juſtice of the peace: And if any perſon ſhall preſume to whip a chriſtian ſervant naked, without ſuch order, the perſon ſo offending, ſhall forfeit and pay the ſum of forty ſhillings, proclamation money, to the party injured; to be recovered, with coſts, upon petition to the county court, (without the formal proceſs of an action,) as in and by this act is provided for ſervants complaints to be heard and determined; provided complaint be made within ſix months after ſuch whipping.

5. *And be it further enacted by the authority aforeſaid,* That all ſervants by indenture or otherwiſe as aforeſaid, ſhall have their complaints received by a juſtice of the peace, who if he find cauſe, ſhall bind the maſter, miſtreſs or overſeer, over to anſwer the complaint at the next county court; and it ſhall be there determined: And all complaints of any ſervant or ſervants ſhall and may, either immediately, or as aforeſaid by virtue hereof, be received at any time, upon petition or information in the court of the county wherein they reſide, without the formal proceſs of an action; and alſo, full power and authority is hereby given to the court, at their diſcretion, (having firſt ſummoned the maſter, miſtreſs or overſeer, to juſtify themſelves if they think fit,) to adjudge, order and appoint what ſhall be neceſſary as to diet, lodging, cloathing or correction: And if any maſter, miſtreſs or overſeer, ſhall not thereupon comply with the order of the ſaid court, the ſaid court is hereby authoriſed and empowered, upon a ſecond complaint, to order ſuch ſervant or ſervants to be immediately ſold at public vendue, by the ſheriff; and after the charges are deducted, the remainder of what the ſaid ſervant or ſervants ſhall be ſold for, to be paid to the owner.

6. *Provided always,* That if ſuch ſervant or ſervants ſhall be ſick or lame, or otherwiſe rendered ſo incapable that he, ſhe or they cannot be ſold for ſuch value at leaſt as ſhall ſatisfy the fees, and other incident charges accrued, the ſaid court ſhall then order ſuch ſervant or ſervants into the care of the churchwardens of the pariſh; and the maſter, miſtreſs or owner, ſhall provide the ſaid ſervant or ſervants with ſuch

convenient neceſſaries as they ſhall direct and judge ſufficient for his, her or their ſupport, until the time due by law from ſuch ſervant or ſervants to their maſter, miſtreſs or owner ſhall be expired, or until ſuch ſervant or ſervants ſhall be ſo recovered as to be ſold, for defraying the ſaid fees and charges.

7. *And be it further enacted,* That the ſaid court, from time to time, ſhall order the charges of keeping ſuch ſervant or ſervants, to be levied upon the goods and chattels of the maſter or owner of ſuch ſervant or ſervants, in caſe they ſhould neglect or refuſe to provide for the ſame.

8. *And be it further enacted by the authority aforeſaid,* That all ſervants aforeſaid, whether by indenture or otherwiſe, as well feme coverts as others, ſhall in the like manner, (as is provided upon complaints of miſuſage,) have their petitions received in the ſaid county court, for their wages, freedom and freedom dues, (in this hereafter expreſſed,) without the formal proceſs of an action; and proceedings and judgment ſhall, in like manner be had thereupon.

9. *And be it further enacted by the authority aforeſaid,* That no maſter or miſtreſs of any ſervant or ſervants, who ſhall happen to be ſick or diſeaſed during the time of their ſervitude, and unable to perform their daily labour, ſhall upon any pretext whatſoever, remit to ſuch ſervant or ſervants, any part of his, her or their time, to be cleared of them, whereby the ſaid ſervant or ſervants may periſh, or become a charge to the pariſh: And whoſoever ſhall hereafter offend herein, or ſhall not uſe and endeavour all lawful means for recovery of ſuch their ſervant or ſervants as ſhall happen to be ſick or diſeaſed during the time of his, her or their ſervitude, ſhall forfeit, for each and every ſervant ſo turned off or neglected, five pounds, proclamation money; to be levied by an order from the county court before whom the fact ſhall be proved, by the oath of one or more witneſs or witneſſes, and to be paid into the hands of the churchwardens of that pariſh where the offence ſhall be committed, and diſpoſed ot towards the ſupport and maintenance of ſuch ſervant or ſervants ſo turned off or neglected, for the recovery of his, her or their health and ſtrength; and ſuch ſervant or ſervants ſhall be, by the county court, or any two juſtices, during the time of their infirmity, ordered into the hands and care of the churchwardens of the pariſh in which his, her or their maſter or owner ſhall dwell: But in caſe ſuch ſick or diſeaſed ſervant or ſervants reſpectively ſhall not live to the expending the ſaid whole ſum of five pounds, proclamation money, then the remainder to be diſpoſed of to the uſe of that pariſh; or in caſe the ſaid ſum of five pounds ſhould not be ſufficient to ſupport each ſervant during his ſervitude, or until his recovery, in ſuch caſe the county court is hereby authoriſed and empowered to order a ſufficiency to be levied (from time to time, as the ſame ſhall become due,) upon the goods and chattels of the maſter or owner of ſuch ſervant or ſervants, if they ſhall neglect or refuſe to provide the ſame, agreeable to the orders of the ſaid court; and ſuch ſervant or ſervants ſo neglected or turned off, ſhall upon their recovery, be ſet free from their maſter or owner.

1741 10. *Provided always, and be it further enacted,* That if any ſervant or ſervants in this government, ſhall, through his, her or their own wilful miſbehaviour, happen to have any diſeaſe, or any broken bones, bruiſes or other impediments, whereby they may be diſabled to perform their labour as they ought to do, and become chargeable to their maſter or owner, ſuch ſervant or ſervants ſhall ſerve his, her or their maſter or owner, after the time of his, her or their ſervice by indenture or otherwiſe is expired, ſuch time as ſhall, by the county court be adjudged ſufficient, to ſatisfy the charges expended on him, her or them, for his, her or their recovery; and ſhall alſo ſerve over ſo much time as he, ſhe or they, by any ſuch means, were diſabled to ſerve: Any thing herein contained to the contrary, notwithſtanding.

11. *And be it further enacted by the authority aforeſaid,* That if any ſervant or ſervants ſhall unjuſtly vex and trouble his, her or their maſter or owner, with groundleſs complaints againſt them to the county court, or to any juſtice or juſtices of the peace, ſuch ſervant or ſervants ſhall, by the county court be ordered to ſerve his, her or their maſter or owner, ſo injured by ſuch unjuſt and groundleſs vexation, after the expiration of the time he, ſhe or they have then to ſerve, the double term and ſpace of that time he, ſhe or they neglected and loſt, in proſecution of ſuch complaints.

12. *And be it further enacted by the authority aforeſaid,* That every ſervant who ſhall be in gaol, for his her or their own offence, ſhall ſerve his, her or their maſter or owner, double the time he, ſhe or they ſhall there remain, after the expiration of the time he, ſhe or they have to ſerve by indenture or otherwiſe; and further, ſerve his, her or their ſaid maſter or owner, ſuch time as ſhall be ordered by the county court, as a ſatisfaction for the fees and other charges his, her or their maſter or owner hath expended for ſuch ſervant or ſervants.

13. *And be it further enacted by the authority aforeſaid,* That in all caſes of penal laws, whereby perſons free are puniſhable by fine, ſervants ſhall be puniſhed by whipping, at the diſcretion of any court, juſtice or juſtices before whom ſuch fine or fines are recoverable, not exceeding thirty-nine laſhes; unleſs the ſervant ſo culpable, can and will procure ſome perſon or perſons to pay the fine.

14. *And be it further enacted by the authority aforeſaid,* That no free man or trader whatſoever, ſhall buy, ſell, trade, barter or borrow any commodities whatſoever, with, to or from any apprentice or ſervant, whether ſo by indenture or otherwiſe, without the conſent of the maſter, miſtreſs or owner of ſuch apprentice or ſervant; upon pain of forfeiting treble the value of the commodity or commodities ſo traded for, bartered or ſold; and alſo, ſhall pay the ſum of ſix pounds, proclamation money, to the uſe of the ſaid maſter, miſtreſs or owner; to be recovered in the court of the county where the offence ſhall be committed, by action of debt, bill, plaint or information, wherein no eſſoin, protection, injunction or wager of law ſhall be allowed or admitted of: And if it ſhall ſo happen, that the perſon ſo offending ſhall not be able to pay treble the value of

the commodities ſo traded for, ſold or bartered, and the ſum of ſix pounds, ſuch perſons ſhall then be adjudged, by the county court, to be ſold as a ſervant for the ſame.

15. *Provided always*, That if the maſter, miſtreſs or owner of ſuch apprentice or ſervant, ſhall not, within ſix months after he or ſhe ſhall have information or knowledge of ſuch offence, proſecute the offender or offenders for the ſame, that then it ſhall and may be lawful for any other perſon ſo to do, and to have and receive every advantage and benefit ariſing from ſuch proſecution.

16. *And be it further enacted by the authority aforeſaid*, That every ſervant, by indenture or otherwiſe, who ſhall embezzle, purloin, wilfully waſte, or ſhall trade, ſell or barter, or otherwiſe make away any of his or her maſter or miſtreſs's corn, cattle, ſheep, hogs, ſtock or other goods or proviſions, or commodities, whatſoever, ſhall upon conviction of every ſuch offence, by one or more teſtimonies, upon oath or confeſſion of the party, before any county court within this government, be adjudged by the ſaid court, to ſerve his or her ſaid maſter or miſtreſs ſuch time as the ſaid court ſhall think reaſonable, for the ſaid offence, after the ſaid time by indenture or otherwiſe, as aforeſaid, is expired.

17. And whereas many women ſervants are begotten with child by freemen or ſervants, to the great prejudice of their maſter or miſtreſs, whom they ſerve; *Be it therefore further enacted by the authority aforeſaid*, That if any woman ſervant ſhall hereafter be with child, and bring forth the ſame during the time of her ſervitude, ſhe ſhall, for ſuch offence, be adjudged by the county court, to ſerve her maſter or miſtreſs one year, after her term of ſervice by indenture or otherwiſe is expired.

18. *And be it further enacted by the authority aforeſaid*, That if any woman ſervant ſhall hereafter be delivered of a child, begotten by her maſter, ſuch ſervant ſhall, immediately after delivery, be ſold by the churchwardens of the pariſh where the offence ſhall be committed, for one year, after the time of ſervice by indenture or otherwiſe is expired; and the money ariſing by ſuch ſale, ſhall be to the uſe of the pariſh: And if any white ſervant woman ſhall, during the time of her ſervitude, be delivered of a child, begotten by any negro, mulatto or indian, ſuch ſervant, over and above the time ſhe is by this act to ſerve her maſter or owner for ſuch offence, ſhall be ſold by the churchwardens of the pariſh, for two years, after the time by indenture or otherwiſe is expired: And the money ariſing thereby applied to the uſe of the ſaid pariſh; and ſuch mulatto child or children of ſuch ſervant, to be bound by the county court, until he or ſhe arrive at the age of thirty-one years.

19. And whereas many abuſes have and may be committed, by perſons who, under pretence of underſtanding ſeveral trades and myſteries, have procured, and may hereafter procure, large ſums of money to be advanced to them, and have entered, and may hereafter enter, into covenants with merchants and others in Great-Britain, or elſewhere, for the payment of large

wagers, yearly, though they were, or may be totally ignorant of, and unable to perform, ſuch trade and myſtery: for remedy whereof,

20. *Be it enacted by the authority aforeſaid,* That all and every perſon or perſons already imported, or who ſhall be hereafter imported into this government, as a tradeſman or workman, on wages, and ſhall be found not to underſtand ſuch trade or employment, the maſter or owner of ſuch ſervant may bring him or her to any county court of this government; which court, upon complaint made to them of ſuch deceit, are hereby empowered and directed to enquire into the ſame, and upon finding any ſuch fraud, may judge and direct ſuch ſatiſfaction to be made to the maſter or owner of ſuch ſervant, either by defalcation of the wages, or part thereof, as to them ſhall ſeem juſt.

21. *And be it further enacted by the authority aforeſaid,* That if any perſon who is or ſhall hereafter be imported or brought into this government as a tradeſman or other workman on wages, ſhall refuſe or neglect to perform his duty, or ſhall abſent himſelf from his maſter or owner's ſervice without leave, in every ſuch caſe, it ſhall and may be lawful for the juſtices of the county court wherein ſuch maſter or owner reſides, upon complaint, and proof to them made, to order ſuch ſatisfaction and reparation to the maſter or owner of ſuch ſervant, for the damages ſuſtained by him for ſuch refuſal or neglect, as to them ſhall ſeem juſt; and for every day ſuch ſervant ſhall abſent himſelf from his maſter or owner's ſervice as aforeſaid, to order and direct ſuch ſervant to ſerve his or her ſaid maſter or owner, two days for every day's abſence, after his time by indenture or otherwiſe is expired, and that without any wages to be paid for ſuch ſervice.

22. *And be it further enacted by the authority aforeſaid,* That there ſhall be allowed to every ſervant, whether by indenture or otherwiſe, not having yearly wages, at the expiration of his or her ſervice, three pounds, proclamation money, beſides one ſufficient ſuit of wearing cloaths, for ſuch ſervant or ſervants.

23. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons already have, or ſhall hereafter import into this government, and here ſell, or retain for his own uſe, as a ſlave, any perſon or perſons that ſhall have been free in any chriſtian country, iſland or plantation, or Turk or Moor, in amity with his majeſty, ſuch importer or ſeller as aforeſaid ſhall forfeit and pay, to the party from whom the ſaid free perſon ſhall recover his or her freedom, double the ſum for which ſuch free perſon was ſold; to be recovered in any court of record within this government, according to the courſe of common law, wherein the defendant ſhall not be admitted to plead, in bar, any act or ſtatute for limitation of actions: And moreover, ſuch importer or ſeller of any ſuch free perſon as aforeſaid, ſhall be committed until he enter into bond before the ſaid court, with two good and ſufficient ſureties, in the ſum of five hundred pounds, ſterling money of Great-Britain, payable to our ſovereign lord the king, his heirs and ſucceſſors,

with condition, that he ſhall and do, within one year then next enſuing, tranſport and land (danger of the ſeas and life only excepted,) ſuch free perſon ſold by him as a ſlave as aforeſaid, (if he or ſhe ſhall ſo require,) in the country, iſland or plantation from whence he or ſhe was indirectly brought as aforeſaid; and ſhall produce an authentic certificate of his performance thereof to the ſaid court.

24. *And be it further enacted by the authority aforesaid,* That each and every juſtice of the peace for the ſeveral counties within this government, are hereby empowered and directed, upon the complaint of any perſon who now is, or hereafter ſhall be imported into this government, and who was free in any chriſtian country, iſland or plantation, before his or her tranſportation hither, who is kept or ſold as a ſlave, to cauſe the pretended owner of ſuch perſon complaining, to appear before him, together with ſuch evidence or evidences as ſhall be material; and after examination taken, in writing, ſhall bind them over to appear at the next county court of which he is a member, where the ſaid complaint ſhall be heard and determined without any formal proceſs of law.

26. *And be it further enacted by the authority aforesaid,* That if any perſon ſhall hire or contract himſelf to ſerve as an overſeer, either upon wages or ſhare of the produce, with any perſon or planter whatſoever within this government, and ſhall abſent himſelf or depart from the ſervice of his maſter or miſtreſs, before the time mentioned in his agreement or contract ſhall be expired, he ſhall, for ſuch offence, forfeit his right and title to his wages or ſhare of the produce.

27. *And be it further enacted by the authority aforesaid,* That if any perſon or perſons whatſoever, ſhall, directly or indirectly, at any time after the ratification of this act, tempt or perſuade any negro or negroes, or other ſlave or ſlaves, to leave his, her or their maſter or miſtreſs's ſervice, out of an intent and deſign to carry or convey away him, her or them, out of this government; or ſhall harbour or conceal him, her or them, for that intent and purpoſe, and be thereof convicted, by his, her or their own confeſſion, or the oath of one credible witneſs, ſuch perſon or perſons ſhall, by the two next juſtices of the peace, be committed to gaol, or bound over to the next court to be held for the county where the offence ſhall be committed, and ſhall be proſecuted by indictment for the ſaid offence; and being thereof lawfully convicted, ſhall by the ſaid court be adjudged to pay to the maſter or miſtreſs for each negro or other ſlave ſo enticed or perſuaded for the purpoſe aforeſaid, the ſum of twenty-five pounds, proclamation money, or the value thereof; to be levied by order of the ſaid court: But in caſe the party offending ſhall not be found worth lands, goods or chattels, to the value aforeſaid, then the ſaid court ſhall adjudge him, her or them, to ſerve the owner of ſuch ſlave or ſlaves, or his aſſigns, five years; and ſo deliver him, her or them, over to the maſter, miſtreſs or owner of ſuch ſlave or ſlaves, ſo tempted or perſuaded as aforeſaid, and make record thereof: But if any perſon or perſons ſhall ſo tempt and practice with any negro or negroes, or other ſlave or ſlaves, and

him, her or them ſo tempted, ſhall actually convey away, or ſend out of this government, and be afterwards apprehended and convicted thereof, he, ſhe or they ſhall by the ſaid court, be ſeverally adjudged and condemned as guilty of felony; and ſhall ſuffer accordingly.

28. And for encouragement of all perſons to take up runaways, *Be it enacted by the authority aforeſaid,* That for the taking up ſervants or ſlaves, if ten miles, or under, from the houſe or quarter where ſuch ſervant or ſlave was kept, there ſhall be allowed, by the maſter if known, and reſiding in the county, if not, by the public, as a reward to the taker-up, ſeven ſhillings and ſix pence, proclamation money, and for every mile above ten, three pence, over and above the ſaid ſum; which ſaid ſeveral rewards ſhall be paid by the churchwardens of the pariſh where ſuch taker-up ſhall reſide, or where he ſhall bring ſuch runaway before a juſtice of the peace; and ſhall be levied again by the churchwardens of the ſaid pariſh, upon the ſaid maſter or owner of ſuch runaway, for reimburſement of the ſame to the pariſh: And for the greater certainty in paying the ſaid rewards, and reimburſing the pariſh, every juſtice of the peace before whom ſuch runaway ſhall be brought, upon the taking up, ſhall grant a certificate thereof, in which he ſhall mention the proper name and ſurname of the taker-up, and the county of his or her reſidence, together with the time and place of taking up the ſaid runaway, and ſhall alſo mention the name of the ſaid runaway, and the proper name and ſurname of the maſter or owner of ſuch runaway, and the county of his or her reſidence, together with the diſtance of miles, in the ſaid juſtices judgment, from the place of taking up the ſaid runaway, to the houſe or quarter where ſuch runaway was kept; upon producing which certificate to the churchwardens of the pariſh where the ſame was granted, they ſhall pay, to the taker-up of ſuch runaway, or his aſſigns, the reward aforeſaid; and ſhall levy the ſame again as aforeſaid: But if it ſhould happen, that the maſter or owner of ſuch runaway ſhould not reſide, or have effects in the county where the ſaid certificate ſhall be granted by the juſtice as aforeſaid, the ſaid churchwardens ſhall tranſmit the ſaid certificate to the ſheriff of the county where the owner of ſuch runaway reſides, or hath effects, who ſhall, upon receipt thereof, immediately levy the ſame upon the goods and chattels of the maſter or owner of ſuch runaway, and return the ſame to the churchwardens aforeſaid, or their order; any law, uſage or cuſtom to the contrary, notwithſtanding.

29. *And be it further enacted by the authority aforeſaid,* That if any negro or other perſon, who ſhall be taken up as a runaway, and brought before any juſtice of the peace, and cannot ſpeak Engliſh, or, through obſtinacy, will not declare the name of his or her owner, ſuch juſtice ſhall, in ſuch caſe, and he is hereby required, by a warrant under his hand, to commit the ſaid negro ſlave or runaway to the gaol of the county wherein he or ſhe ſhall be taken up; and the ſheriff, or under-ſheriff, of the county into whoſe cuſtody the ſaid runaway ſhall be committed, ſhall forthwith cauſe notice, in writing, of ſuch

commitment, to be ſet up on the court-houſe door of the ſaid county, and there continued during the ſpace of two months; in which notice, a full deſcription of the ſaid runaway, and his cloathing, ſhall be particularly ſet down; and ſhall cauſe a copy of ſuch notice to be ſent to the clerk or reader of each church or chapel within his county, who are hereby required to make publication thereof, by ſetting up the ſame in ſome open and convenient place, near the ſaid church or chapel, on every lord's day during the ſpace of two months, from the date thereof: And every ſheriff failing to give ſuch notice as herein is directed, ſhall forfeit and pay five pounds, proclamation money; which ſaid forfeiture ſhall and may be recovered, with coſts, in any court of record in this government, by action of debt, bill, plaint or information, wherein no eſſoin, privilege, protection, injunction or wager of law, ſhall be allowed: The one moiety whereof ſhall be to the churchwardens, for the uſe of the pariſh, as well as towards the defraying the charges that ſhall ariſe and become due by virtue of this act, and the other moiety to the perſon who ſhall ſue for the ſame.

30. *And be it further enacted by the authority aforeſaid,* That if within the ſpace of two months, the owner of any ſuch negro ſlave or runaway cannot be known, or doth not claim the ſame, that the ſheriff of the ſaid county to whoſe cuſtody ſuch runaway ſhall be committed, ſhall cauſe the ſaid runaway to be delivered to the next conſtable, to be by him delivered to the next conſtable, and ſo from conſtable to conſtable, to the public gaol of this government, after ſuch manner, and to receive ſuch puniſhment, as in this act is mentioned and directed.

31. *And be it further enacted by the authority aforeſaid,* That when any negro or runaway, as aforeſaid, ſhall be delivered to the keeper of the public gaol of this government, by virtue of this act, and his or her maſter or owner cannot be known, it ſhall and may be lawful for the keeper of the ſaid gaol upon his application to the general court, or the neareſt county court to the ſaid gaol, or to any two juſtices out of court, with the conſent of either of the ſaid courts or two juſtices, as aforeſaid, to let the ſaid negro or runaway to hire, to any perſon or perſons whom they ſhall approve of, for ſuch ſum or ſums of money, or quantity of commodities, and for ſuch term or time as they ſhall direct; and that out of the money or commodities ariſing by ſuch hire, all fees relating to the taking up, impriſonment and conveying to gaol, and charges of maintaining ſuch negro or runaway, ſhall be firſt paid and diſcharged, and the overplus, if any, diſpoſed of as ſuch court, who ſhall order the ſaid negro or runaway to let out to hire, ſhall direct.

32. *Provided always,* That when the owner of ſuch negro or runaway ſhall demand the ſame, the perſon to whom ſuch negro or runaway ſhall be let out to hire, ſhall forthwith deliver him or her into the cuſtody of the keeper of the public gaol, and ſhall then alſo pay the hire, in proportion to the time the ſaid runaway hath ſerved; and the keeper of the ſaid gaol ſhall deliver the ſaid runaway to his maſter or owner, he or ſhe

1741 paying down all fees and charges of taking up, impriſonment, conveying to gaol, and maintaining ſuch runaway; in caſe the hire of the ſaid runaway be not ſufficient to ſatisfy the ſame.

33. *And be it further enacted by the authority aforeſaid*, That when the keeper of the ſaid public gaol ſhall, by direction of ſuch court as aforeſaid, let out any negro or runaway to hire, to any perſon or perſons whomſoever, the ſaid keeper ſhall, at the time of his delivery, cauſe an iron Collar to be put on the neck of ſuch negro or runaway, with the letters P. G. ſtamped thereon; and that thereafter the ſaid keeper ſhall not be anſwerable for any eſcape of the ſaid negro or runaway.

34. *And be it further enacted by the authority aforeſaid*, That when any runaway ſervant or ſlave ſhall be brought before any juſtice of the peace within this government, ſuch juſtice ſhall, by his warrant, commit the ſaid runaway to the next conſtable, and therein alſo order him to give the ſaid runaway ſo many laſhes as the ſaid juſtice ſhall think fit, not exceeding the number of thirty-nine, well laid on, on the bare back of ſuch runaway; and then to be conveyed from conſtable to conſtable, until the ſaid runaway ſhall be carried home, or to the public gaol, as aforeſaid.

35. *And be it further enacted*, That every conſtable, ſhall, on his receipt of ſuch runaway, give a receipt for him or her; and that every conſtable failing to execute ſuch warrant, according to the tenor thereof, or refuſing to give ſuch receipt, ſhall forfeit and pay twenty ſhillings, proclamation money, or the value thereof in bills, to the churchwardens, for the uſe of the pariſh wherein ſuch failure ſhall be; to be recovered by a warrant under the hands of any two juſtices within the county where ſuch conſtable ſhall reſide: And ſuch corporal puniſhment ſhall not deprive the maſter or owner of any runaway ſervant of the other ſatisfaction herein by this act appointed to be had of ſuch ſervant, for his or her running away.

36. *And be it further enacted by the authority aforeſaid*, That if any ſheriff, under-ſheriff or conſtable, ſhall ſet to work, employ or let out to hire, without order of court as aforeſaid, any runaway ſervant or ſlave committed to the cuſtody of any of them, or ſhall detain ſuch runaway longer in his or their cuſtody than by this act is directed, he or they ſo offending, ſhall forfeit and pay five pounds, proclamation money; to be recovered, in any court of record in this government, by action of debt, bill, plaint or information, wherein no eſſoin, protection, privilege or wager of law, ſhall be allowed: One moiety whereof to be paid to the churchwardens, for the uſe of the pariſh where the offence ſhall be committed, and the other to him or them who ſhall ſue for the ſame: And if any ſheriff, or his under-ſheriff, or any conſtable, into whoſe hands any runaway ſervant or ſlave ſhall be committed, by virtue of this act, ſhall negligently or wilfully ſuffer ſuch runaway to eſcape the ſaid ſheriff, under-ſheriff or conſtable, he or they ſhall be liable to the action of the party grieved, for recovery of his damages, at the common law, with coſts.

37. *And be it further enacted by the authority aforeſaid*, That all and every the conſtables within this government, for their

encouragement to perform their duty, be, and they are hereby, for the future, exempted from the payment of all public, county and pariſh levies, for their own perſons, during their continuance in office; and that the keepers of ferries within this government, ſhall give immediate paſſage to all conſtables, and their aſſiſtants, charged with conducting any runaway or runaways, either to the public gaol, or to ſuch runaway or runaways maſter or owner, without charging ſuch conſtable, or their aſſiſtants, for the ferriage, either going or returning: But all ſuch ferriages of conſtables, and their aſſiſtants, ſhall be paid by the churchwardens of the pariſh where ſuch ferry-keepers reſpectively live, and levied, as aforeſaid, upon the reſpective maſters or owners of ſuch runaways.

39. *And be it further enacted by the authority aforesaid*, That when any negro or other runaway whoſe owner is ſuppoſed to be reſident in any other province, ſhall be committed to any public gaol of this government, the keeper of the ſaid gaol ſhall, by the firſt opportunity after ſuch commitment, ſend a deſcription of ſuch negro or runaway, together with the account of the time of the commitment, and the county where ſuch runaway is committed, to the preſs, to be advertiſed in the Virginia or South-Carolina Gazette; for which he ſhall be reimburſed by the owner of the ſaid ſlave or runaway.

40. *And be it further enacted by the authority aforesaid*, That no ſlave ſhall go armed with gun, ſword, club or other weapon, or ſhall keep any ſuch weapon, or ſhall hunt or range with a gun in the woods, upon any pretence whatſoever, (except ſuch ſlave or ſlaves who ſhall have a certificate, as is herein after provided;) and if any ſlave ſhall be found offending herein, it ſhall and may be lawful for any perſon or perſons to ſeize and take, to his own uſe, ſuch gun, ſword or other weapon, and to apprehend and deliver ſuch ſlave to the next conſtable, who is enjoined and required, without further order or warrant, to give ſuch ſlave twenty laſhes, on his or her bare back, and to ſend him or her home; and the maſter or owner of ſuch ſlave ſhall pay to the taker-up of ſuch armed ſlave, the ſame reward as by this act is allowed for taking up of runaways.

41. *Provided always*, That nothing in this act ſhall be conſtrued or extended, to prohibit or debar any maſter or owner of any ſlave or ſlaves within this government, from employing any one ſlave in each and every diſtinct plantation, from hunting in the woods on their maſter's lands with a gun, to preſerve his or her ſtock, or to kill game for his or her family.

42. *Provided also*, That ſuch maſter or owner ſhall firſt deliver into the county court, an account, in writing, of the name of any ſuch ſlave to be employed as aforeſaid; and the chairman of the court ſhall ſign a certificate that ſuch ſlave is allowed to carry a gun, and hunt in the woods on his maſter or miſtreſs's lands: And the maſter, miſtreſs or overſeer of ſuch ſlave ſhall give him the ſaid certificate, which ſuch ſlave ſhall always carry about him, on pain of being apprehended and puniſhed as aforeſaid: Any thing herein before contained to the contrary, notwithſtanding.

43. *And be it further enacted by the authority aforeſaid,* That no ſlave ſhall go from off the plantation or ſeat of land where ſuch ſlave ſhall be appointed to live, without a certificate of leave, in writing, for ſo doing, from his or her maſter or overſeer, (negroes wearing liveries always excepted.)

45. And whereas many times ſlaves runaway, and lie out hid and lurking in ſwamps, woods and other obſcure places, killing cattle and hogs, and committing other injuries to the inhabitants of this government: *Be it therefore enacted by the authority aforeſaid,* That in all ſuch caſes, upon intelligence of any ſlave or ſlaves lying out as aforeſaid, any two juſtices of the peace for the county wherein ſuch ſlave or ſlaves is or are ſuppoſed to lurk or do miſchief, ſhall, and they are hereby empowered and required, to iſſue proclamation againſt ſuch ſlave or ſlaves (reciting his or their name or names, and the name or names of the owner or owners, if known,) thereby requiring him or them, and every of them, forthwith to ſurrender him or themſelves; and alſo, to empower and require the ſheriff of the ſaid county to take ſuch power with him as he ſhall think fit and neceſſary, for going in ſearch and purſuit of, and effectual apprehending ſuch outlying ſlave or ſlaves; which proclamation ſhall be publiſhed on a ſabbath day, at the door of every church or chapel, or for the want of ſuch, at the place where divine ſervice ſhall be performed in the ſaid county, by the pariſh clerk or reader, immediately after divine ſervice: And if any ſlave or ſlaves againſt whom proclamation hath been thus iſſued, ſtay out and do not immediately return home, it ſhall be lawful for any perſon or perſons whatſoever, to kill and deſtroy ſuch ſlave or ſlaves, by ſuch ways and means as he or ſhe ſhall think fit, without accuſation or impeachment of any crime for the ſame,

47. *And be it further enacted by the authority aforeſaid,* That if any number of negroes or other ſlaves, that is to ſay, three or more, ſhall, at any time hereafter, conſult, adviſe or conſpire to rebel, or make inſurrection, or ſhall plot or conſpire the murther of any perſon or perſons whatſoever, every ſuch conſulting, plotting or conſpiring, ſhall be adjudged and deemed felony; and the ſlave or ſlaves convicted thereof, in manner herein after directed, ſhall ſuffer death.

48. *And be it further enacted by the authority aforeſaid,* That every ſlave committing ſuch offence, or any other crime, ſhall forthwith be committed, by any juſtice of the peace, to the common gaol of the county within which the ſaid offence ſhall be committed, there to be ſafely kept; and that the ſheriff of ſuch county, upon ſuch commitment, ſhall forthwith certify the ſame to any juſtice in the commiſſion for the ſaid court, for the time being, reſident in the county, who is thereupon required and directed to iſſue a ſummons for two or more juſtices of the ſaid court, and four freeholders, ſuch as ſhall have ſlaves in the ſaid county; which ſaid three juſtices, and four freeholders, owners of ſlaves, are hereby empowered and required, upon oath, to try all manner of crimes and offences that ſhall be committed by any ſlave or ſlaves, at the court houſe of the county, and to take for evidence, the confeſſion

of the offender, the oath of one or more credible witneſſes, or ſuch teſtimony of negroes, mulattoes or indians, bond or free, with pregnant circumſtances, as to them ſhall ſeem convincing, without the ſolemnity of a jury; and the offender being then found guilty, to paſs ſuch judgment upon ſuch offender, according to their diſcretion, as the nature of the crime or offence ſhall require; and on ſuch judgment, to award execution.

49. *Provided always, and be it enacted,* That it ſhall and may be lawful for each and every juſtice, being in the commiſſion of the peace for the county where any ſlave or ſlaves ſhall be tried, by virtue of this act, (who is owner of ſlaves,) to ſit upon ſuch trial, and act as a member of ſuch court, though he or they be not ſummoned thereto: Any thing herein before contained to the contrary, in any wiſe, notwithſtanding.

50. And to the end ſuch negro, mulatto or indian, bond or free, not being chriſtians, as ſhall hereafter be produced as an evidence on the trial of any ſlave or ſlaves for capital or other crimes, may be under the greater obligation to declare the truth; *Be it further enacted,* That where any ſuch negro, mulatto or indian, bond or free, ſhall, upon due proof made, or pregnant circumſtances, appearing before any county court within this government, be found to have given a falſe teſtimony, every ſuch offender ſhall, without further trial, be ordered, by the ſaid court, to have one ear nailed to the pillory, and there ſtand for the ſpace of one hour, and the ſaid ear to be cut off, and thereafter the other ear nailed in like manner, and cut off, at the expiration of one other hour; and moreover, to order every ſuch offender thirty-nine laſhes, well laid on, on his or her bare back, at the common whipping poſt.

51. *And be it further enacted by the authority aforeſaid,* That at every ſuch trial of ſlaves committing capital or other offences, the firſt perſon in commiſſion ſitting on ſuch trial, ſhall, before the examination of every negro, mulatto or indian, not being a chriſtian, charge ſuch to declare the truth.

52 *Provided always, and it is hereby intended,* That the maſter, owner or overſeer of any ſlave, to be arraigned and tried by virtue of this act, may appear at the trial, and make what defence he can for ſuch ſlave or ſlaves; ſo that ſuch defence do not relate to any formality in the proceeding on the trial.

55. *Provided always, and be it further enacted,* That nothing herein contained, ſhall be conſtrued, deemed or taken, to defeat or bar the action of any perſon or perſons, whoſe ſlave or ſlaves ſhall happen to be killed by any other perſon whoſoever, contrary to the directions and true intent and meaning of this act; but that all and every owner or owners of ſuch ſlave or ſlaves, ſhall and may bring his, her or their action, for recovery of damages for ſuch ſlave or ſlaves ſo killed.

58. *And be it further enacted by the authority aforeſaid,* That all and every other act and acts, and every clauſe and article thereof heretofore made, ſo far as relates to ſervants and ſlaves, or to any other matter or thing whatſoever, within

1743 the purview of this act, is and are hereby repealed and made void, to all intents and purpoſes, as if the ſame had never been made.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly held at Edenton, the ſecond day of April, in the year of our lord one thouſand ſeven hundred and forty-three.

CHAP. IV.

An act to aſcertain what attornies fees ſhall be taxed and allowed, in any ſuit or action brought in any of the courts of record in this province.

5. *And be it further enacted by the authority aforeſaid*, That if any practiſing attorney in any court of record in this province, ſhall neglect to perform his duty in any action in which he ſhall be retained or commit any fraudulent practice, ſuch attorney ſhall be liable to an action on the caſe, at common law, in the general or county court of this province, to the party injured; and on the verdict paſſing againſt him, judgment ſhall be given, by the ſaid court, for the plaintiff, to recover double damages, with the coſts of ſuit.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, held at Newbern, the twentieth day of April, in the year of our lord one thouſand ſeven hundred and forty-five.

CHAP. III.

An additional act to an act, entitled, an act to prevent killing Deer at unſeaſonable times, and for putting a ſtop to many abuſes committed by white perſons, under pretence of hunting.

WHEREAS by the before recited act, it is, among other things, enacted, that it ſhall not be lawful for any perſon to kill or deſtroy any deer, running wild in the woods or unfenced grounds in this government, by guns or any other ways or means whatſoever, between the fifteenth day of February, and the fifteenth day of July, yearly, and in each year, after the ratification of the ſaid act; and that any perſon convicted of the ſame, ſhall forfeit and pay the ſum of five pounds, current money: And whereas it appears, that the allowing liberty of killing deer in fenced grounds and incloſures at ſuch ſeaſons, has given room to ſeveral perſons to evade the ſaid law:

2. We therefore pray that it may be enacted, *And be it enacted by his Excellency* Gabriel Johnſton, *Eſquire, Governor, by and with the* advice and conſent of his Majeſty's Council, and General Aſſembly of this province, and it is hereby enacted by the authority of the ſame,* That if any perſon ſhall be convicted of killing deer, or having veniſon, or a green deer ſkin or ſkins, in his houſe, camp or poſſeſſion, between the fifteenth day of February, and fifteenth day July, yearly, after the ratification of this act, he ſhall forfeit and pay the ſum of forty ſhillings, proclamation money; to be recovered and applied as herein after is directed.

3. *Provided nevertheleſs,* That nothing in this act ſhall be conſtrued, to extend to convict any perſon or perſons of the ſaid forfeiture, in whoſe houſe any veniſon, green ſkin or ſkins, ſhall be found, which hath been left in ſuch houſe without the knowledge, privity or conſent of ſuch perſon, or any of his family, upon due proof thereof to be made, by the perſon therewith charged.

LAWS OF NORTH CAROLINA.

At a General Aſſembly, held at Newbern, the ſeventeenth day of March, in the year of our lord one thouſand ſeven hundred and forty-nine.

CHAP. IV.

An act to enable the Juſtices of the ſeveral counties to provide certain Law Books for the uſe of their county courts.

BE it enacted by his Excellency Gabriel Johnſton, *Esquire, Governor, by and with the Advice and Consent of his Majesty's Council and General Assembly of this Province,* That the juſtices of each county court within this province, ſhall and may have full power and authority, in ſome convenient time, according to their diſcretion, to purchaſe and provide the lateſt editions of the law books following, to wit: Nelſon's juſtice, Cary's Abridgement of the ſtatutes, Swinburn of Wills, or Godolphin's orphan's legacy, and Jacob's law Dictionary, or Wood's inſtitutes: Which books, when provided, ſhall be, forever after, for the uſe of the county court, and ſhall be kept in the office of the ſeveral clerks, and conſtantly during the ſitting of every county court, laid, by the clerk of each court, on the court table, for the uſe and peruſal of the juſtices of ſuch court, and of all ſuch as may have any matters depending in court.

2. *And be it further enacted by the authority aforesaid,* That if any county court clerk ſhall abuſe or deſtroy, or ſuffer to be abuſed or deſtroyed, any of the books ſo committed to his care, he ſhall be fined, at the diſcretion of the court, for ſuch his neglect: Which fine ſhall be applied towards repairing the loſs or damage of ſuch books, occaſioned by ſuch neglect.

3. *And be it further enacted by the authority aforesaid,* That the juſtices in the ſeveral county courts, ſhall have full power to lay ſuch an additional tax on their reſpective counties, as ſhall be ſufficient to purchaſe and provide the books aforeſaid; and ſhall apply the ſame accordingly.

At a General Aſſembly, begun and held at Newburn, the twelfth day of June, in the nineteenth year of his Majeſty's Reign, and from thence continued, by ſeveral prorogations, to the twenty-ſeventh day of September, in the year of our lord one thouſand ſeven hundred and fifty-one.

CHAP. III.

An additional act to an act, entitled, feme coverts how to paſs lands.

WHEREAS the method preſcribed for feme coverts to convey their eſtates in lands in this province, by an act of Aſſembly, made at a General Biennial Aſſembly, held on the ſeventeenth day of November, in the year of our lord one thouſand ſeven hundred and fifteen. entitled. feme coverts how to paſs lands, in many caſes, hath been found by experience, to be impracticable; by reaſon that the right of inheritance of many lands in this province is in feme coverts who are reſidents of neighbouring governments; and in ſuch caſes, conveyances have been made by the huſband, with the wife's conſent, and ſometimes by both, and at other times by the wife only, and afterwards ratified and confirmed by the huſband; by means whereof the titles of many perſons are become precarious and doubtful, and much land lies uncultivated; to the great diminution of the revenue of the crown:

2. *Be it enacted by his Excellency* Gabriel Johnſton, *Eſquire, Governor, by and with the advice and Conſent of his Majeſty's Council, and the General Aſſembly of this Province, and it is hereby enacted by the authority of the ſame,* That from and after the paſſing of this act, all conveyances in writing, and ſealed by huſband and wife, for any lands, and by them perſonally acknowledged before the chief juſtice, or in the court of the county where the land lieth, the wife being firſt privily examined before the chief juſtice, or ſome member of the county court, appointed by the ſaid court for that purpoſe, whether ſhe doth voluntarily aſſent thereto, and regiſtered according to the directions of the laws of this province, ſhall be as valid in law to convey all the eſtate and title which ſuch wife may or ſhall have in any lands, tenements or hereditaments ſo conveyed, whether in fee-ſimple, right of dower or other eſtate, not being fee-tail, as if done by fine and recovery, or any other ways or means whatſoever.

3. *Provided nevertheleſs,* That where any ſuch conveyances as aforeſaid ſhall be acknowledged by the huſband, or proved by the oath of one or more witneſſes, before the chief juſtice or county court where the land lieth, and it ſhall be repreſent-

1751 ed to the chief juſtice or county court aforeſaid, that the wife is a reſident of any other country, or ſo aged or infirm that ſhe cannot travel to the chief juſtice or county court, to make ſuch acknowledgement as aforeſaid; it ſhall and may be lawful for the chief juſtice or county court, by his or their order, to direct the clerk of the county court where ſuch land lieth, to iſſue a commiſſion to two or more commiſſioners, for receiving the acknowlegment of any deed of ſuch feme covert, for paſſing her eſtate in any lands, tenements or hereditaments; and ſuch deed, acknowledged before them, after they have examined her privily and apart from her huſband touching her conſent, and certified by the county court, to which the commiſſion ſhall be returnable, ſhall by order of the county court, be regiſtered, with the commiſſion and return, and ſhall be as effectual as if perſonally acknowledged before the chief juſtice or county court by ſuch feme covert.

4. And for preventing miſtakes in iſſuing out ſuch commiſſions, *Be it enacted by the authority aforesaid*, That the ſeveral clerks of this province, ſhall iſſue the ſame, in the form following, to wit:

North-Carolina, C. County, ſſ.

To A. B. C. D. and E. Gentlemen, Greeting.

WHEREAS F. G. hath produced a deed of conveyance, made to him from H. I. and K. his wife, of a certain tract or parcel of land, lying and being in the county of   in our province of North-Carolina, and procured the ſame to be proved or acknowledged by the ſaid H. I. before I. K. our chief juſtice our ſaid province, (or in the court of our ſaid county of C. as the caſe may be,) and it being repreſented to our ſaid chief juſtice, or to our ſaid court, that K. wife of the ſaid H. I. is an inhabitant of our ſaid province, or of   or is ſo aged and infirm, (here as the caſe may be) ſo that ſhe cannot travel to our ſaid chief juſtice, or court of our ſaid county of   to be privily examined as to her free conſent in executing the ſaid conveyance. Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by theſe preſents do give unto you, or unto any two of you, full power and authority, to take the private examination of the ſaid K. wife of the ſaid H. I. concerning her free conſent in her executing the ſaid conveyance: And therefore we command you, or any two of you, that at ſuch certain day and place as you ſhall think fit, you go to the ſaid K. if ſhe cannot conveniently come to you, and privily and apart from her huſband, examine her the ſaid K. whether ſhe executed the ſaid conveyance freely and of her own accord, without fear or compulſion of the ſaid H. I. her huſband; and the examination being diſtinctly and plainly wrote on the ſaid deed, or on ſomepaper annexed thereto, and when you ſhall have ſo taken the ſaid examination, you are to ſend the ſame, cloſed up, under the ſeals of you, or any two of you, together with this writ, unto our ſaid court, to be held for the ſaid county of C. on the   day of   next enſuing,   witneſs L. M. clerk of our ſaid court, at   day of   Anno Dom. 17

L. M. Cl. C.

5. And for the greater ſecurity of purchaſers, *Be it enacted by the authority aforeſaid*, That all deeds and conveyances of lands, heretofore made by the huſband and wife, or by the wife, and afterwards ratified and confirmed by the huſband, wherein a valuable conſideration is expreſſed, for any eſtate or title of any feme covert, in any lands, tenements or hereditaments, whether in fee-ſimple, right of dower, or other eſtate, not being fee-tail, where ſuch deeds or conveyances have been regiſtered within twelve months from the date thereof, or ſhall be regiſtered within the ſpace of one year after the return of the commiſſion for taking the examination of the wife, as herein before mentioned, or where the perſon or perſons to whom the ſame hath been made, hath actually entered thereupon, and hath continued in poſſeſſion thereof for the ſpace of ſeven years, by virtue of ſuch deeds; they ſhall be reſpectively as valid in law, and take effect as fully, to the benefit of all perſons reſpectively in poſſeſſion thereby, and their heirs and aſſigns, againſt the huſband and wife, and every of their heirs and aſſigns, and againſt all other perſons claiming by, from or under them, or any of them, as if the ſame had been done by fine and recovery, or any other ways or means whatſoever; any law, cuſtom or uſage to the contrary, in any wiſe, notwithſtanding.

At a General Aſſembly, begun and held at Newbern, the twenty-ſeventh day of March, in the year of our lord one thouſand ſeven hundred and fifty-three.

CHAP. VI.

An additional act to an act concerning ſervants and ſlaves.

WHEREAS by an act, entitled, an act concerning ſervants and ſlaves, among other things, it is provided, that no ſlave ſhall go armed with gun, ſword, club or any other weapon, or ſhall keep any ſuch weapon, or ſhall hunt or range in the woods with a gun, upon any pretence whatſoever, except ſuch ſlave or ſlaves who ſhall have a certificate, as in the ſaid act is provided; and whereas the remedy in the ſaid act provided has proved ineffectual to reſtrain many ſlaves in divers parts of this province from going armed, which may prove of dangerous conſequence: For remedy whereof,

2. We pray it may be enacted; *And be it enacted by the honorable* Matthew Rowan, *Eſquire; Preſident, by and with the advice and conſent of his Majeſty's council, and General Aſſembly of this province,* That from and after the paſſing of this act, no certificate ſhall be ſigned by any chairman of any county court in this province, allowing any ſlave to carry a gun and hunt in the woods, unleſs the maſter, miſtreſs or manager of ſuch ſlave, ſhall firſt enter into bond, with ſufficient ſecurity, to the county court, either before, or at the time ſuch certificate ſhall be given, for the good and honeſt behaviour of ſuch ſlave; which bond may be aſſigned over to any perſon or perſons who ſhall be injured by ſuch ſlave; which aſſignee ſhall and may maintain an action thereon, and recover ſuch damages as he or ſhe ſhall or may ſuſtain by ſuch ſlave, in any court of record in this province, by action of debt, bill, plaint or information; wherein no eſſoign, injunction, protection or wager of law, ſhall be allowed or adimtted of.

3. *And be it further enacted by the authority aforeſaid,* That no ſlave ſhall have or carry a gun in any plantation where crop is not tended, nor more than one in any plantation where there is crop tended, nor after crop is houſed: and the maſter, miſtreſs or overſeer of any slave, with whom ſhall be found any gun, ſword, or other weapon contrary to the true intent and meaning of this and the before recited act, ſhall forfeit and pay to the perſon finding the ſame the ſum of twenty ſhillings proclamation money; to be recovered by a warrant before any one juſtice of the peace for the county where the offence ſhall be committed, any puniſhment inflicted on the ſlave, forfeiture of the gun, ſword, or other weapon notwithſtanding; unleſs ſuch maſter, miſtreſs, or overſeer ſhall by their own oath

or other proof make appear that ſuch slave carrying a gun, ſword or other weapon was without their conſent or knowledge.

4. *And be it further enacted by the authority aforeſaid,* That the juſtices of each county court when and where they judge it neceſſary, ſhall divide their reſpective counties into diſtricts, and yearly at the firſt court to be held for their counties reſpectively after the firſt day of May, ſhall appoint three freeholders in each diſtrict as ſearchers, who ſhall take the following oath, viz.

I A. B. do ſwear that I will as ſearcher for guns, ſwords and other weapons, among the slaves in my diſtrict, faithfully and as privately as I can, diſcharge the truſt repoſed in me, as the law directs to the beſt of my power. So help me God. Which ſeacher ſhall four times a year, or oftener if they think neceſſary examine the quarters and other places where negroes reſort in their diſtrict, for any gun, ſword and other weapon, and upon finding any of the ſaid weapons, are hereby required to ſeize the ſame, and convert them to their own uſe, as by the afore-recited act is directed.

5. *And be it further enacted by the authority aforeſaid,* That any perſon appointed ſearcher as aforeſaid who ſhall neglect or refuſe to act, ſhall forfeit and pay the ſum of forty ſhillings proclamation money, to ſuch perſon who ſhall next ſucceed him; to be recovered as other fines in this act mentioned.

6. And for the encouragement of ſuch ſearchers faithfully to execute their office, *Be it further enacted by the authority aforeſaid,* That each and every ſearcher ſhall, as to his own perſon, be, during the time of his continuance in his office, exempted from ſerving as a conſtable, or upon the roads, or in the militia, or as a juror, and ſhall not be obliged to pay any provincial, county or pariſh tax of what kind or nature ſoever.

7. *Provided always,* That no perſon but ſuch as are liable to be appointed conſtables, ſhall be obliged to ſerve as ſearchers; any thing in this act, to the contrary, notwithſtanding.

8. *And be it enacted by the authority aforeſaid,* That no ſlave ſhall hunt or range in the woods with a dog or dogs, except ſuch as ſhall have a certificate for hunting, obtained as is in this act directed: And if any ſlave ſhall be found offending herein, it ſhall and may be lawful for any perſon or perſons to kill and deſtroy the ſaid dog or dogs, and to bring the ſaid ſlave before the next magiſtrate, who ſhall, on due proof of his offence, order the ſaid ſlave ſuch correction as he ſhall judge reaſonable, not exceeding thirty laſhes.

10. *And be it enacted by the authority aforeſaid,* That in caſe any ſlave or ſlaves, who ſhall not appear to have been cloathed and fed according to the intent and meaning of this act, ſhall be convicted of ſtealing any corn, cattle, hogs or other goods whatſoever, from any perſon not the owner of ſuch ſlave or ſlaves, ſuch injured perſon ſhall and may maintain an action of treſpaſs againſt the maſter, owner or poſſeſſor of ſuch ſlave, in the general or county court, and ſhall recover his or her damages, with coſts of ſuit; any law, uſage or cuſtom, to the contrary, notwithſtanding.

At a general aſſembly began and held at Newbern, on the twelfth day of December, in the year of our lord one thouſand ſeven hundred and fifty-four, and from thence continued by ſeveral prorogations to the thirtieth of September, in the year of our lord one thouſand ſeven hundred and fifty-ſix; being the third ſeſſion of this aſſembly.

CHAP. IV.

An Act for aſcertaining the method of proving Book Debts.

WHEREAS doubts have ariſen upon conſtruction of the law now in force, preſcribing the manner of proving book debts; for prevention whereof for the future;

2. *Be it enacted by the governor, council and aſſembly, and by authority of the ſame,* That in any action of debt, or upon the caſe, which hath been or ſhall be brought, where the plaintiff hath declared or ſhall declare upon an emiſſit, indebitatus aſſumpſit, quantum valebant, or quantum meruit, for goods, wares and merchandizes, by him ſold and delivered or for work done and performed, ſhall file his account with his declaration; and upon the trial of the iſſue or executing a writ of enquiry of damages in ſuch action ſhall declare upon his corporal oath, or ſolemn affirmation (as the caſe may be) that the matter in diſpute is a book account, and that he hath no means to prove the delivery of ſuch articles as he ſhall then propoſe to prove by his own oath, or any of them but by his book; and in that caſe, ſuch book ſhall and may be given in evidence, if he ſhall make out, by his own oath or affirmation, that ſuch book doth contain a true account of all the dealings, or the laſt ſettlement of accounts between them, and that all the articles therein contained, and by him ſo proved, were bona fide delivered, and that he hath given the defendant all juſt credits; and ſuch book, and oath or affirmation, ſhall be admitted and received as good evidence, in any court of law, for the ſeveral articles ſo proved to be delivered within two years before the ſaid action brought, but not for any article of a longer ſtanding: And where the perſon who delivered ſuch goods, wares or merchandizes, or performed ſuch work and labour, ſhall die, his executors or adminiſtrators may give his book in evidence, upon his or their making oath, or affirmation, that they verily believe the account as there charged is juſt and true, and that there are no witneſſes to his or their knowledge, capable of proving the delivery of the ſeveral articles as he ſhall propoſe to prove by the ſaid book, and oath or affirmation, and that he found the book ſo ſtated, and doth not know of any other or further credit to be given than what is there mentioned;

and ſuch book and oath or affirmation, ſhall be admitted and received as evidence for any articles delivered within the time aforeſaid.

3. But whereas it may be inconvenient and hazardous, by reaſon of bad weather and accidents, to carry books of accounts great diſtances to court, when a copy of the account, proved in the ſame manner as by this law the book is to be proved, may ſatisfy the defendant as fully: *Be it therefore enacted by the authority aforeſaid,* That a copy from the book of accounts, proved in manner herein before directed, ſhall and may be given in evidence in any ſuch action as aforeſaid, and ſhall be as available as if ſuch book had been produced, unleſs the defendant, or his attorney, ſhall give notice to the plaintiff, or his attorney, at the joining of the iſſue, that he will require the book to be produced at trial; and in that caſe, no ſuch copy ſhall be admitted, or received as evidence.

4. *Provided nevertheleſs,* That the defendant ſhall be at liberty to conteſt the plaintiff's evidence, and oppoſe the ſame by other legal evidence; and where the defendant ſhall be an executor or adminiſtrator, his teſtator or inteſtates's book, ſhall and may be given in evidence againſt the plaintiff's book, where the plaintiff is an executor or adminiſtrator, for ſuch articles as ſhall be proved in manner aforeſaid.

5. *Provided alſo,* That no book of accounts, although the ſame may be proved by witneſs or witneſſes, ſhall be admitted or received as evidence in any action for goods, wares or merchandizes delivered, or for work done, above five years before the ſaid action brought; except in caſe of perſons being out of the government, or where the account ſhall be ſettled and ſigned by the parties.

6. *Provided nevertheleſs,* That no plaintiff ſhall be at liberty to prove by his book, and oath or affirmation as aforeſaid, on the trial of any ſuch action as afore mentioned, any article or articles, the amount whereof ſhall exceed the ſum of thirty pounds, proclamation money.

7. And for preventing a multiplicity of law ſuits, *Be it further enacted by the authority aforeſaid,* That in all caſes where there are, or ſhall be, mutual debts ſubſiſting between the plaintiff and defendant, or if either ſue, or be ſued, as executor or adminiſtrator, where there are mutual debts ſubſiſting between the teſtator or inteſtate, and either party, one debt may be ſet againſt the other, either by being pleaded in bar, or given in evidence, on the general iſſue, on notice given of the particular ſum intended to be ſet off, and on what account the ſame is due, notwithſtanding ſuch debts ſhall or may be deemed in law to be of a different nature; but if either debt aroſe by reaſon of a penalty, the ſum intended to be ſet off ſhall be pleaded in bar, ſetting forth what is juſtly due on either ſide; any law, uſage or cuſtom, to the contrary, in any wiſe, notwithſtanding.

8. *And be it further enacted by the authority aforeſaid,* That one act of Aſſembly made in the thirteenth year of his preſent majeſty's reign, entitled, an act preſcribing the method of proving book debts, ſhall be and is hereby repealed.

CHAP. VI.

An act for relief of ſuch perſons as have ſuffered, or may ſuffer, by not having had their deeds and meſne conveyances proved and regiſtered within the time heretofore appointed for ſuch purpoſes, and to prevent diſputes and law-ſuits concerning lands.

2. *Be it enacted by the Governor, Council, and Aſſembly, and by the authority of the ſame,* That all deeds and meſne conveyances of lands, tenements and hereditaments, hereafter to be made, ſhall and may, at any time within two years from the reſpective dates thereof, be acknowledged, or proved in manner aforeſaid, and delivered to the regiſters of the counties wherein they are reſpectively ſituated.

4. *And be it further enacted by the authority aforeſaid,* That the grantee or grantees, in any deed heretofore made, or hereafter to be made, ſhall and may, at his own expence, on motion to the county court wherein the land by the ſame granted lies, obtain a ſummon for any one or more of the ſubſcribing witneſſes to ſuch deed, which ſhall be ſigned by the clerk, and directed to the ſheriff, commanding him to ſummon ſuch witneſs to appear at the next county court, and give his evidence concerning the execution of ſuch deed, under the penalty of twenty pounds: And the ſheriff ſhall, and is hereby required to execute the ſame, at leaſt five days before the court to which the ſame is returnable, and make due return thereof; for which ſummon, ſervice, and return, the clerk and ſheriff ſhall be paid the ſame fees as are allowed on iſſuing, ſerving, and returning, ſubpœnas in actions; and if any witneſs to a deed, ſo ſummoned, ſhall fail to appear on the return of ſuch ſummon, the court ſhall give judgment againſt him for the penalty aforeſaid, for which execution may be taken out, either againſt his body or goods, by him or them at whoſe inſtance he ſhall be ſummoned, unleſs he ſhew ſufficient cauſe to the next ſucceeding court for not having appeared to give his evidence.

5. *And be it further enacted by the authority aforeſaid,* That every regiſter who ſhall neglect or delay to regiſter any deed or conveyance within two months after the ſame ſhall be delivered to him, ſuch regiſter, for each and every two months he ſhall ſo neglect or delay, ſhall forfeit and pay the ſum of twenty pounds, proclamation money; one half to the church-wardens, for the uſe of the pariſh wherein he ſhall reſide, and the other half to him or them who will ſue for the ſame; to be recovered by action of debt, with coſts.

LAWS OF NORTH-CAROLINA.

1759

At a General Aſſembly, begun and held at Newbern, on the twelfth day of December, in the year of our lord one thouſand ſeven hundred and fifty-four, and from thence continued, by ſeveral prorogations, to the twentieth day of November, in the year of our lord one thouſand ſeven hundred and fifty-nine, then held at Wilmington: Being the ninth ſeſſion of this Aſſembly.

CHAP. XIV.

An act to amend an act, entitled, an act for building and maintaining of court-houſes, priſons and ſtocks, in every county within this province, and appointing rules for each county priſon for debtors.

WHEREAS by one act of Aſſembly, paſſed in the fifteenth year of his preſent majeſty, entitled, an act for building and maintaining of court-houſes, priſons, and ſtocks, in every county within this province, and appointing rules for each county priſon for debtors, it is, among other things, enacted, that every perſon committed to gaol (not for treaſon or felony) upon giving bond and ſecurity to the ſheriff of the county, may have the liberty of the rules of the priſon to which he is committed; which indulgence hath been greatly abuſed:

2. *Be it therefore enacted by the Governor, Council, and Aſſembly, and by the authority of the ſame,* That all and every bond or bonds which ſhall hereafter be given in purſuance of the ſaid act by any perſon or perſons committed on a capias ad ſatisfaciendum, ſhall, by the ſheriff taking the ſame, be aſſigned by the party at whoſe inſtance ſuch perſon or perſons was or were committed to gaol, and ſhall be returned to the office of the clerk of the court from whence ſuch execution iſſued, there to be ſafely kept, and ſhall have the force of a judgment; and if any perſon who ſhall obtain the rules of any priſon, upon giving bond and ſecurity as aforeſaid, ſhall eſcape out of the ſame before he ſhall have paid the debt, or damages and coſts, according to the condition of ſuch bond, it ſhall be lawful, and full power and authority is hereby given to the court where ſuch bond is lodged, upon motion of the party for whom ſuch execution iſſued, to award execution againſt ſuch perſon and his ſecurities, for the debt, or damages and coſts, with intereſt, to be computed from the time of ſuch eſcape till payment: And no perſon or perſons whatſoever, who ſhall be committed to gaol on any ſuch execution ſhall have or be allowed the rules of any priſon, but ſhall be kept in ſafe cuſtody in the priſon to which he or they ſhall be committed, until the whole debt or damages, with intereſt and coſts, ſhall be fully

1762 paid and ſatisfied : Any thing in the ſaid act contained, to the contrary, notwithſtanding.

3. *Provided always*, That ſuch obligor ſhall have ten days previous notice of ſuch motion in writing, and the obligers, in ſuch caſe, ſhall not be admitted to plead non eſt factum, in their defence, unleſs they ſhall, by affidavit, prove the truth of ſuch plea.

LAWS OF NORTH-CAROLINA.

At an Aſſembly, begun and held at Newbern, the third day of November, in the year of our lord one thouſand ſeven hundred and ſixty-two being the firſt ſeſſion of this preſent Aſſembly.

CHAP. V.

An act for the better care of orphans, and ſecurity and management of their eſtates.

WHEREAS the greateſt part of the eſtates in this province belonging to orphans are of ſo inconſiderable value that an application to the court of chancery, in many inſtances, will occaſion an expence, which the profits of them are not ſufficient to defray ; and it having been found by experience, that the court of each reſpective county, exerciſing the power of regulating the education of orphans, and the management of their eſtates, have proved of ſingular ſervice to them.

2. *Be it therefore enacted by the Governor, Council and Aſſembly, and by the authority of the ſame*, That where any perſon hath, or ſhall have any child or children under the age of twenty-one years and not married, it ſhall and may be lawful to and for the father of ſuch child or children, whether born at the time of his death, or in ventre ſa mere, or whether ſuch father be within the age of twenty-one years, or of full age, by deed executed in his lifetime, or by his laſt will and teſtament in writing, in ſuch manner, and from time to time, as he ſhall think fit, to diſpoſe of the cuſtody and tuition of ſuch child or children, for and during ſuch time as he, ſhe or they ſhall remain under the age of twenty-one years, or for any leſs time, to any perſon or perſons ; and every ſuch diſpoſition heretofore made, or hereafter to be made, ſhall be good and effectual againſt all and every perſon and perſons claiming the cuſtody and tuition of ſuch child or children as guardian, in ſoccage, or otherwiſe ; and the perſon or perſons to whom ſuch cuſtody and tuition hath been, or ſhall be ſo diſpoſed or deviſed, ſhall and may maintain an action of raviſhment of ward or treſpaſs againſt any perſon or perſons who ſhall wrongfully take

away or detain any ſuch child or children, for the recovery of ſuch child or children, and ſhall and may recover damages for the ſame in the ſaid action, with coſts, for the benefit of ſuch child or children.

3. *Provided nevertheleſs*, That nothing in this act contained ſhall be conſtrued to hinder any of the people commonly called quakers to make ſuch diſpoſition, or to hinder the ſuperior or inferior courts from committing the guardianſhip and cuſtody of their children to the people of that perſuaſion; and that every perſon or perſons to whom ſuch tuition and cuſtody hath been, or ſhall be ſo diſpoſed or deviſed as aforeſaid, ſhall and may take into his or their poſſeſſion, for the uſe of ſuch child or children, the profits of all lands, tenements and hereditaments; and alſo the ſlaves, goods, and chattels, and perſonal eſtate of ſuch child or children; and may bring ſuch action or actions in relation thereunto, as by law a guardian in common ſoccage might do.

4. *Provided always*, That nothing herein before contained ſhall extend to diſcharge any apprentice from his apprenticeſhip; and the ſuperior court of the diſtrict, or the inferior court of pleas and quarter ſeſſions of the county wherein ſuch guardian ſhall reſide, reſpectively, upon complaint to them made of ſuch guardian abuſing the truſt repoſed in him, by miſuſing the child or children ſo committed to his tuition as aforeſaid, in being about, or intending to marry ſuch child or children in diſparagement, neglecting the care of their education ſuitable to their eſtate, or waiſting, converting to his own uſe, or otherwiſe miſmanaging ſuch eſtate, to make and eſtabliſh, from time to time, ſuch rules and orders for placing ſuch child or children under the care and tuition of any other perſon or perſons, ſecuring the eſtate, and for the better education and uſage of ſuch child or children, as they, in their diſcretion, ſhall judge meet and neceſſary.

5. *And be it further enacted by the authority aforeſaid*, That the ſuperior courts and inferior courts of pleas and quarter ſeſſions of this province, within their reſpective juriſdictions, have, and ſhall have full power and authority, from time to time, to take cognizance of all matters concerning orphans and their eſtates, and to appoint guardians in ſuch caſes where to them it ſhall appear neceſſary; and ſhall take good ſecurity of all guardians by them to be appointed for the eſtate of the orphans by them committed: And if any court ſhall commit an orphan's eſtate to the charge or guardianſhip of any perſon or perſons without taking good and ſufficient ſecurity for the ſame, the juſtice or juſtices appointing ſuch guardian ſhall be liable for all loſs and damages ſuſtained by the orphan for want of ſuch ſecurity being taken; to be recovered by action, at the common law, in any court of record in which the ſame is cognizable, at the ſuit of the party grieved.

6. *Provided always*, That where the ſecurities were good at the time of their being taken or accepted, but afterwards become inſolvent, in ſuch caſe the juſtice or juſtices ſhall not be liable.

7. *And be it further enacted*, That the bond to be given by a-

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ny perſon or perſons appointed guardian as aforeſaid, ſhall be made payable to the juſtice or juſtices preſent in court and granting ſuch guardianſhip, the ſurvivors or ſurvivor of them, their executors or adminiſtrators, in truſt, for the benefit of the child or children committed to the tuition and care of ſuch guardian; which bond ſuch court ſhall cauſe to be acknowledged before them and recorded; and that in the name of the juſtice or juſtices to whom the ſaid bond is made payable, the ſurvivors or ſurvivor of them, their executors or adminiſtrators, any perſon or perſons injured, may and ſhall, at his, her or their coſts and charges, commence and proſecute a ſuit againſt ſuch guardian and his ſecurities, executors or adminiſtrators; and ſhall and may recover all damages which he, ſhe or they have ſuſtained by reaſon of the breach of the condition thereof.

8. *Provided always*, That if any verdict or judgment ſhall paſs for ſuch guardian or his ſecurities, the perſon at whoſe inſtance ſuch ſuit ſhall be commenced or proſecuted, ſhall pay coſts.

9. *And be it further enacted by the authority aforeſaid*, That when a guardian ſhall be appointed to an orphan by any ſuperior or inferior court, ſuch guardian ſhall, at the next court after his appointment, exhibit an account, upon oath, of all the eſtate of ſuch orphan which he or ſhe ſhall have received into his or her hands or poſſeſſion; and every guardian heretofore or hereafter to be by any ſuch court appointed ſhall annually exhibit his account, and ſtate of the profits and diſburſements of the eſtate of ſuch orphan upon oath; and ſuch account ſo to be exhibited, ſhall be entered by the clerk in particular books to be provided and kept for that purpoſe only: And when the ſaid courts ſhall know or be informed that any guardian or guardians by them reſpectively appointed, do waſte or convert the money or eſtate of any orphan to his or their own uſe, or do in any manner miſmanage the ſame, is about or intends to marry him or her in diſparagement, or neglects to educate or maintain any orphan according to his or her degree and circumſtances, or where any ſuch guardian or his ſecurities are likely to become inſolvent; ſuch court ſhall have power, from time to time, to make and eſtabliſh ſuch rules and orders for the better ordering, managing, and ſecuring ſuch eſtate, and for the better education of, and maintaining ſuch orphans, or to appoint another guardian, as they ſhall think fit and convenient.

10. *And be it further enacted*, That every guardian, as ſoon as conveniently the ſame may be done, ſhall, by order of the ſuperior or inferior court of pleas and quarter ſeſſions, diſpoſe of all the goods and chattels of his or her ward as are or may be liable to periſh, conſume, or be the worſe by uſing or keeping (except in the inſtances hereafter mentioned) for the moſt that can be got for the ſame, by public ſale, having firſt advertiſed the ſame at all public places within the county at leaſt twenty days before the day of ſale, in reaſonable lots; and ſhall, for enhancing the price thereof, give ſix months credit, upon good ſecurity given, for which ſervice he ſhall be allow-

ed by the court, ſo as ſuch allowance does not exceed two and a half per cent. and ſuch guardian, after the time of ſuch payment is paſt, ſhall take and purſue all lawful ways and means to receive and recover the money, upon pain of being anſwerable for the ſame; and if the ſame cannot be received before the orphan entitled to receive ſuch money ſhall have a right to demand it, or ſuch guardian ſhall be removed from his guardianſhip, he or ſhe ſhall and may aſſign ſuch bond to ſuch orphan, and ſuch aſſignment ſhall diſcharge ſuch guardian for ſo much againſt him, her or them: And where the profits of any orphan's eſtate ſhall be more than ſufficient to maintain and educate him or her, the guardian of ſuch orphan ſhall lend the ſurplus, and all other ſums of money in his hands belonging to ſuch orphan, upon bond, with a good and ſufficient ſecurities, to be approved of by the next ſucceeding court, and to be repaid with intereſt; which intereſt ſuch guardian ſhall account for annually; and where the perſon or perſons to whom ſuch money ſhall be lent, or their ſecurities, are likely to become inſolvent, ſuch guardian ſhall uſe all lawful means to enforce the payment thereof, on pain of being liable for the ſame as aforeſaid; and an aſſignment of ſuch laſt mentioned bond in either of the aforementioned caſes, ſhall diſcharge ſuch guardian for ſo much as is ſpecified in the condition thereof.

11. *And be it further enacted*, That where any orphan ſhall have lands and a ſufficient number of ſlaves to cultivate and improve the ſame, ſuch slaves, unleſs otherwiſe ordered by the ſuperior and inferior courts, ſhall be employed on the lands or plantations of ſuch orphan; and all horſes, cattle, ſheep or hogs, ſhall be kept upon ſuch lands and plantations until ſuch orphan comes of age; and he or ſhe shall have the benefit of the increaſe, and shall ſuſtain the loſs if any shall happen.

12. *Provided nevertheleſs*, That if any ſuch ſtock grow too numerous, or if it will be to the advantage of ſuch orphan, his or her guardian ſhall and may ſell, by order of the ſuperior or inferior court, ſuch part of ſuch ſtock as ſuch court ſhall think fit; and all plate ſhall be preſerved and delivered to ſuch orphan when at age, in kind according to weight and quantity.

13. *And be it further enacted*, That no guardian ſhall let or farm out any land belonging to any orphan for a longer term than the orphan be of age, or in other manner than by leaſe, in writing; and that ſpecial care be had that the tenant ſhall improve the plantation; and that he or ſhe keep the houſes, orchards and fences thereon, or that ſhall be erected on the ſame, in good and ſufficient repair, and leave the ſame ſo at the expiration of ſuch leaſe; and that proviſion be made in ſuch leaſe for preventing all kind of waſte, and employing any timber to any other uſe than the immediate uſe of the plantation.

14. *And be it further enacted*, That if the guardian of any orphan ſhall ſuffer his or her lands to lapſe or become forfeited for non-payment of quit-rents, ſuch guardian ſhall be liable to anſwer the full value of the lands ſo forfeited unto ſuch orphan at his or her coming of Age: and if it ſhall ſo happen that any orphan ſhall not have ſlaves to cultivate his or her

lands, and the guardian of ſuch orphan cannot rent the ſame for ſufficient to pay and diſcharge the quit-rents thereof, and there ſhall not be perſonal eſtate ſufficient for that purpoſe, it ſhall and may be lawful for ſuch guardian, with the conſent and approbation of the ſuperior or inferior court, annually, to ſell or diſpoſe of, or uſe ſo much of the light-wood, to box ſo many pine trees, or to ſell ſo much of the timber on the ſame, as ſhall raiſe ſufficient to pay and ſatisfy the quit-rents thereof, and no more.

15. *And be it further enacted by the authority aforesaid*, That the juſtices of every inferior court of pleas and quarter ſeſſions in this province, reſpectively, ſhall on the firſt day of the court that ſhall be held next after the firſt day of January in every year, hold an orphan's court for the purpoſe aforeſaid; and every perſon heretofore appointed, or that ſhall hereafter be appointed guardian to any orphan by any court, or by deed or will as aforeſaid, ſhall exhibit ſuch account as aforeſaid, and the juſtices of every court ſhall, at the ſame court examine into all accounts of guardians ſo to be exhibited to them, and ſhall direct a ſummons to iſſue, returnable to their next court, againſt all guardians who ſhall then fail to appear and render ſuch account, whether ſuch guardian be reſident in the ſame or any other county, and ſhall then alſo enquire into the abuſes and miſmanagement of guardians; and whether they, or their ſecurities, are likely to become inſolvent, and thereupon to proceed according to the power in this act before given; and if any ſuch guardian ſhall wilfully neglect, after being ſummoned as aforeſaid, to appear, or obſtinately refuſe to exhibit ſuch account, it ſhall and may be lawful for the court to iſſue an attachment for ſuch contempt, and to commit ſuch guardian until he or ſhe ſhall exhibit ſuch account.

16. *Provided always*, That nothing herein before contained ſhall be conſtrued to reſtrain the power of the inferior courts of pleas and quarter ſeſſions in enquiring, as often as they ſhall think proper, into the abuſes and miſmanagement of guardians; but that it ſhall be lawful for them to execute ſuch power at any time or times when to them it ſhall appear neceſſary; any thing in this act contained to the contrary notwithſtanding.

17. *And be it further enacted*, That the grand jury of every county in this province ſhall, annually, at the orphans court to be holden for their counties, reſpectively, be charged with, and preſent to the juſtices thereof, in writing, the names of all orphan children within their pariſh that they ſhall know have not guardians appointed them, and are not bound out to ſome trade or employment; and all abuſes, miſmanagements and neglect of ſuch guardians as live within their county.

18. *And be it further enacted by the authority aforesaid*, That it ſhall and may be lawful for every guardian to charge in his account all reaſonable diſburſements and expences; and if, upon rendering ſuch account, it ſhall appear to the court that ſuch guardian hath, really and bona fide, diſburſed more in one year than the profits of the orphan's eſtate do amount unto, for the education and maintenance of ſuch orphan, ſuch

guardian ſhall be allowed and paid for the ſame out of the profits of ſuch orphan's eſtate in any other year.

19. *Provided always*, That ſuch diſburſements be, in the opinion of ſuch court, ſuitable to the degree and circumſtances of the eſtate of ſuch orphan; and that where ſuch eſtate ſhall be of ſo ſmall value that no perſon will educate and maintain him or her for the profits thereof, ſuch orphan ſhall, by direction of the court, be bound apprentice; every male to ſome tradeſman, merchant, mariner, or other perſon approved by the court, until he ſhall attain the age of twenty-one years; and every female to ſome ſuitable employament, till her age of eighteen years: And alſo, ſuch court may, in like manner, bind apprentice all free baſe born children; and every ſuch female child being a mulatto or muſtee, until ſhe ſhall attain the age of twenty-one years: And the maſter or miſtreſs of every ſuch apprentice, ſhall find and provide for him or her diet, clothes, lodging, and accommodations, fit and neceſſary; and ſhall teach, or cauſe him or her to be taught, to read and write; and, at the expiration of his or her apprenticeſhip, ſhall pay every ſuch apprentice the like allowance as is by law, appointed for ſervants by indenture or cuſtom; and on refuſal ſhall be compelled thereto, in like manner; and if upon complaint made to the inferior court of pleas and quarter ſeſſions, it ſhall appear that any ſuch apprentice is ill-uſed, or not taught the trade, profeſſion or employment to which he or ſhe was bound, it ſhall be lawful for ſuch court to remove and bind him or her to ſuch other perſon or perſons as they ſhall think fit.

20. *And be it further enacted*, That the binding of ſuch apprentice by order of court as aforeſaid, ſhall be by indenture, made in the name of the preſiding acting juſtice of the court, and his ſucceſſors, of the one part, and of the maſter or miſtreſs to whom he or ſhe ſhall be bound, of the other; which indenture ſhall be acknowledged or proved before ſuch court, and recorded, and a counterpart thereof ſhall remain and be kept in the clerk's office for the benefit of ſuch apprentice; and that any perſon or perſons injured, may and ſhall, at his or her coſts and charges, proſecute a ſuit thereon in the name of ſuch juſtice, or his ſucceſſors, and recover all damages which he or ſhe may have ſuſtained by reaſon of the breach of the covenants therein contained; and if any verdict or judgment ſhall paſs for ſuch maſter or miſtreſs, he or ſhe ſhall recover coſts.

21. *And be it further enacted by the authority aforeſaid*, That where any perſon who now is, or hereafter ſhall be ſecurity for the eſtate of any orphan, ſhall conceive himſelf in danger by reaſon thereof, and petition the court where ſuch ſecurity was entered into for relief, it ſhall be lawful for ſuch court, upon petition to them exhibited, forthwith to order ſummons to iſſue, againſt the party or parties with and for whom the petitioner ſtands bound, returnable to the next court; and thereupon to compel ſuch party or parties to give ſufficient other or counter ſecurities, to be approved by the ſaid court, or to deliver up the ſaid eſtate to the ſaid petitioner, or ſuch other per-

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ſon as the court ſhall direct; or they may, and are hereby empowered, to make ſuch other order or rule therein for the relief of the petitioner, and better ſecuring ſuch orphan's eſtate, as to them ſhall appear juſt and equitable.

22. *Provided always,* That ſuch court ſhall take good and ſufficient ſecurity of the perſon or perſons to whom ſuch eſtate ſhall be ſo committed, in like manner, and under the like penalty, as is by this act required to be taken of guardians appointed by the court; and every ſuch perſon ſhall alſo exhibit his account, and be ſubject to the rules and orders of the court, in the ſame manner, to all intents and purpoſes, as is herein before required of guardians, or they are made ſubject unto.

23. *And be it further enacted by the authority aforesaid,* That all legacies, filial portions, diſtributive ſhares of inteſtates eſtates, ſum or ſums of money, or other eſtate, due or owing from any perſon appointed guardian to any orphan, or from any executors or adminiſtrators, or other perſon whatſoever, ſhall and may be recovered by petition to the ſuperior courts of the diſtricts, or any inferior courts of pleas and quarter ſeſſions; reſpect being had to the juriſdiction of the ſaid courts; and that in all ſuits by petition as aforeſaid, and in the ſaid courts reſpectively, the following rules and methods ſhall be obſerved; to wit:

The petitioner ſhall file his petition in court, upon exhibiting the ſame, and thereupon ſummons ſhall be iſſued by the clerk of courſe; and that upon the defendant's being ſerved therewith, and with a copy of the ſaid petition, he ſhall appear and put in his anſwer or plea, upon oath, or demur.

That upon an anſwer, plea or demurrer being filed as aforeſaid, the petitioner may move the court to have the ſame ſet for hearing, and immediately argued, and thereupon the court ſhall proceed to hear and determine the ſame according as the matter in equity and law ſhall appear to them, without regard to form, or want of form in the petition, proceſs or courſe of proceedings.

That upon the defendant's being ſerved with a ſummons, and a copy of the petition, ten days before the court to which ſuch ſummons is returnable, and oath made thereof, if he ſhall fail to appear and plead, anſwer or demur as aforeſaid, the petitioner's petition ſhall be taken pro confeſſo, and the matter thereof decreed accordingly, with coſts; unleſs on ſpecial reaſons ſhewn to, and approved of by the court, time ſhall be allowed ſuch defendant to file ſuch plea, anſwer or demurrer.

That upon the petitioner diſmiſſing his petition, or the ſame being diſmiſſed for want of proſecution, he ſhall pay coſts.

And if any defendant ſhall appear on ſuch ſummons, and ſhall obſtinately refuſe to anſwer the petition of the petitioner, the ſame ſhall be taken pro confeſſo, and the matter decreed as aforeſaid.

Every defendant ſhall be at liberty to ſwear to his anſwer or plea before any juſtice.

That when a plea or demurrer ſhall be over-ruled, the defendant ſhall file his anſwer the ſame court.

That when the petitioner ſhall be minded to diſprove the anſwer of the defendant and ſupport his claim, he may reply.

Commiſſions to examine witneſſes may be awarded by the court after replication filed, the party taking out ſuch commiſſion, giving the adverſe party ten days notice of the time and place of executing the ſame.

And that upon a decree being made on any ſuch petition, it ſhall and may be lawful for the court who ſhall make the ſame, to grant execution againſt the defendant's body, goods and chattels, lands and tenements, for ſatisfying ſuch decree and coſts: Any law, uſage or cuſtom to the contrary notwithſtanding.

24. *And be it further enacted by the authority aforeſaid,* That when any perſon ſhall conceive himſelf injured or aggrieved by order or ſentence of any inferior court, in appointing a guardian to any orphan, or in removing any orphan from the care and tuition of any perſon who has been appointed ſuch, or on refuſing to make ſuch appointment or removal as aforeſaid, he may appeal from ſuch order or ſentence to the court of chancery of this province, or to the ſuperior court of the diſtrict, at his option; and the party praying ſuch appeal, ſhall file a copy of the proceedings of the inferior court therein with the clerk of the chancery, or clerk of the ſuperior court (as the caſe may be) fifteen days before the ſitting of ſuch court, and thereupon it ſhall and may be lawful for the court, to which ſuch appeal is made, to proceed to rehear the matter, and either affirm or reverſe ſuch order or ſentence, and thereupon to award execution for all ſuch coſts and charges as ſhall be occaſioned by ſuch appeal.

25. *Provided nevertheleſs,* That the party praying ſuch appeal, before the ſame ſhall be granted by the inferior court, ſhall enter into bond, with ſufficient ſecurity, for proſecuting ſuch appeal with effect; and the payment of all ſuch coſts and charges as ſhall be awarded againſt him in caſe he ſhall be caſt in his ſaid appeal.

26. *Provided alſo,* That nothing in this act contained ſhall be conſtrued to reſtrain or abridge the power of the ſaid court of chancery, in any matter or thing relating to orphans or their eſtates; but the ſaid court ſhall and may hold, uſe, exerciſe and enjoy, the ſame juriſdictions, powers and authorities therein, in as full and ample manner, to all intents and purpoſes, as if this act had never been made; any thing herein contained to the contrary notwithſtanding.

CHAP. IX.

An act for the more eaſy recovery of money due upon promiſſory notes, and to render ſuch notes negotiable.

WHEREAS promiſſory notes are of great utility, as well to merchants as others, and there being no method of recovering money ſpecified in ſuch notes by any act of Aſſembly in force in this province: For remedy whereof,

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2. *Be it enacted by the governor, council and aſſembly, and by the authority of the ſame,* That all notes ſigned by any perſon or perſons, body politic or corporate, or by the ſervant or agent of any corporation, banker, merchant or trader, who is, or ſhall be uſually intruſted to ſign ſuch promiſſory notes for them, whereby ſuch perſon or perſons, body politic or corporate, or the ſervant or agent of any corporation, banker, merchant or trader, ſhall promiſe to pay any perſon or perſons, body politic or corporate, or the ſervant or agent of any corporation, banker, merchant or trader, or order; the money mentioned in ſuch note, ſhall be conſtrued to be, by virtue thereof, due and payable to ſuch perſon or perſons, body politic or corporate, or the ſervant or agent of any corporation, banker, merchant or trader, to whom the ſame is made payable; and alſo, ſuch note payable to ſuch perſon or perſons, body politic or corporate, or the ſervant or agent of any corporation, banker, merchant or trader, or order, may be aſſignable over in like manner as inland bills of exchange are by cuſtom of merchants in England; and the perſon or perſons, body politic or corporate, or the ſervant or agent of any corporation, banker, merchant or trader, to whom ſuch money is or ſhall be payable, may maintain an action for the ſame, as they might upon ſuch bill of exchange; and the perſon or perſons, body politic or corporate, or the ſervant or agent of any corporation, banker, merchant or trader, to whom ſuch note ſo payable to order is aſſigned or indorſed, may maintain an action againſt the perſon or perſons, body politic or corporate, or the ſervant or agent of any corporation, banker, merchant or trader, who ſigned, or ſhall ſign ſuch note, or any who ſhall or have indorſed the ſame, as in caſes of inland bills of exchange, and recover damages, and coſts of ſuit; and in caſe of non-ſuit, or a verdict ſhall paſs againſt the plaintiff, the defendant ſhall recover coſts.

3. *And be it further enacted by the authority aforeſaid,* That all judgments heretofore recovered in any court of law within this province, on any ſuch promiſſory note or notes, ſhall be good and valid, to all intents and purpoſes, and ſhall not be reverſed for any matter or cauſe relating to ſuch note or notes; and all actions heretofore commenced in any of the ſaid courts on any promiſſory note or notes, and not already determined, ſhall be proſecuted, carried on, and judgment thereupon had, in like manner as is directed for the recovery of money due upon promiſſory notes by an act of parliament made in the third and fourth years of the reign of her late majeſty Queen Ann, for making ſuch notes negotiable.

4. *And be it further enacted by the authority aforeſaid,* That when any perſon or perſons ſhall, by order in writing, ſigned by his or their proper hand, direct the payment of any ſum or ſums of money, in the hands or poſſeſſion of any other perſon or perſons, to the bearer, or any perſon or perſons whatſoever, the money therein ſpecified, ſhall, by virtue thereof, be due and payable to ſuch perſon or perſons to whom the ſame is drawn payable, and may be put in ſuit againſt the perſon or perſons who ſhall draw the ſame, or againſt the perſon or per-

ſons on whom the ſame ſhall be drawn, after acceptance thereof by him or them to whom the ſame ſhall be made payable, and recover damages.

5. *Provided nevertheleſs,* That no perſon or perſons whatſoever, ſhall proſecute any ſuit againſt any perſon or perſons, who ſhall give ſuch order for the money therein mentioned, before the ſame ſhall have firſt been proteſted for non-acceptance, and notice given thereof to the drawer, before ſuch ſuit ſhall be brought; and if any ſuit ſhall be brought on any ſuch order before notice, and refuſal to pay as aforeſaid, the plaintiff or plaintiffs ſhall be non-ſuit, and pay coſts.

LAWS OF NORTH-CAROLINA.

At an Aſſembly, begun and held at Wilmington, the thirtieth day of January, in the year of our lord one thouſand ſeven hundred and ſixty-four, being the firſt ſeſſion of this preſent Aſſembly.

CHAP. III.

An act to empower the inferior courts of the ſeveral counties in this province to order the laying out of public roads, and eſtabliſh and ſettle ferries; and to appoint where bridges ſhall be built, for the uſe and eaſe of the inhabitants of this province; and to clear navigable rivers and creeks.

4. *And be it further enacted*, That if any perſon or perſons after the paſſing of this act, not empowered to keep ferry, ſhall pretend to keep any ferry, or to tranſport any perſon or perſons, or their effects, for pay, within ten miles of any ferry (being on the ſame river or water) which is already, or hereafter ſhall be appointed, ſuch perſon or perſons ſo pretending to keep ferry, or tranſporting any perſon or perſons, or their effects, ſhall forfeit and pay the ſum of twenty ſhillings, proclamation money, for every ſuch offence, to the neareſt ferryman; to be recovered by a warrant from any juſtice of the peace, upon full proof thereof made before him.

18. *And be it further enacted by the authority aforeſaid*, That an act, entitled, an act for empowering the ſeveral commiſſioners herein after named to make, mend and repair, all roads, bridges, cuts and water-courſes, already laid out, or hereafter to be laid out in the ſeveral counties and diſtricts hereinafter appointed, in ſuch manner as they ſhall judge moſt uſeful to the public, paſſed at Newbern the twentieth day of April, in the year of our lord one thouſand ſeven hundred and forty-five; another act, entitled, an act for eſtabliſhing public roads and ferries, and for the better regulation of the ſame in ſeveral counties, paſſed at Newbern the twelfth day of December, in the year of our lord one thouſand ſeven hundred and fifty-ſix; and one other act, entitled, an act for altering the method of working on the roads, and appointing public ferries within the counties of Duplin, Cumberland, Rowan and Anſon, paſſed at Newbern the eleventh day of December, in the year of our lord one thouſand ſeven hundred and ſixty-two; and every clauſe and clauſes, article and articles of them, and of each and every other act and acts, clauſe and clauſes thereof, heretofore made, within the purview of this act, ſhall be, and are hereby ſeverally from henceforth repealed.

LAWS OF NORTH CAROLINA.

At an Aſſembly, begun and held at Newbern, the third day of November, in the year of our lord one thouſand ſeven hundred and ſixty-ſix; being the firſt ſeſſion of this preſent aſſembly.

CHAP. III.

An act appointing the method of diſtributing inteſtate eſtates.

1. *Be it by the governor, council and aſſembly and by the authority of the ſame,* That all and every perſon or perſons to whom adminiſtration on the eſtate of any perſon deceaſed ſhall hereafter be granted, ſhall diſtribute the ſurplus of ſuch eſtates in manner following, to wit: If there are not more than two children one-third part to the wife of the inteſtate, and all the reſt, by equal portions, to and amongſt the children of ſuch perſon dying inteſtate, and ſuch perſons as legally repreſent ſuch children, in caſe any of the ſaid children be then dead, other than ſuch child or children who ſhall have any eſtate by the ſettlement of the inteſtate, or ſhall be advanced by the inteſtate in his life time, by portion or portions equal to the ſhare which ſhall by ſuch diſtribution be allotted to the other children to whom ſuch diſtribution is to be made; and in caſe any child who ſhall have any eſtate by ſettlement from the inteſtate, or ſhall be advanced by the inteſtate in his life time, by portion or portions not equal to the ſhare which ſhall be due to the other children by ſuch diſtribution as aforeſaid, then ſo much of the ſurplus of the eſtate of ſuch inteſtate, to be diſtributed to ſuch child or children as ſhall have any land by ſettlement from the inteſtate, or were advanced in the life time of the inteſtate, as ſhall make the eſtate of all the ſaid children to be equal as nearly as can be eſtimated. And in caſe there ſhould be no children, nor any legal repreſentatives of them, then one third of the ſaid eſtate to be allotted to the wife of the inteſtate, and the reſidue of the ſaid eſtate to be diſtributed equally to every of the next of kin of the inteſtate who are in equal degree, and to thoſe who legally repreſent them, provided that there be no repreſentatives admitted amongſt collaterals after brothers' and ſiſters' children. If there are more than two children, then ſuch widow ſhall ſhare equally with all the children, ſhe being entitled to a child's part; and in caſe there be no wife, then all the ſaid eſtate to be diſtributed equally to and amongſt the children; and in caſe there be no child, then to the next of kindred in equal degree of or unto the inteſtate, and their legal repreſentatives as aforeſaid, and in no other manner whatſoever. And if after the death of the father any of his children, ſhall die inteſtate, without wife or children in the life time of the mother, every brother and ſiſter, and the repreſentatives of them, ſhall have an equal ſhare

1766 with the mother, of the eſtate of the child or children ſo dying inteſtate.

2. *And be it further enated by the authority aforeſaid,* That ſo much of an act of Aſſembly, entitled, an act concerning proving wills, and granting letters of adminiſtration, and to prevent frauds in the management of inteſtates eſtates, as is within the purview of this act, is hereby repealed and made void.

CHAP. XIV.

An act to prevent the inhabitants of South Carolina driving their ſtocks of cattle from thence to range and feed in this province, and other purpoſes.

WHEREAS of late years many of the inhabitants of South Carolina have made it a practice to fix cowpens, and ſettle people with large ſtocks of cattle (though they are not owners of any land) in this province, which deſtroys the range, and greatly injures the poor inhabitants of ſeveral of the counties bordering on South-Carolina:

2. *Be it therefore enacted by the Governor, Council, and Aſſembly, and by the authority of the ſame,* That from and after the paſſing of this act, it ſhall not be lawful for any perſon, who is not an inhabitant of this province, to fix any cowpen, or ſettle or range any ſtock or number of cattle in this province; nor ſhall any inhabitant, on any account whatever, take charge of, or receive under his or her care or cuſtody, in order to range or raiſe ſtock, from any number of cattle belonging to an inhabitant of any other province, or wherein a reſident of any other province hath any ſhare or intereſt, unleſs ſuch owner or keeper ſhall be legally poſſeſſed, in his or her own right, of a ſufficient quantity of land for feeding the ſaid cattle on, allowing one hundred acres of land for every ten head of cattle: And that the owner or keeper of ſuch cattle ſhall record in the inferior court of the county where he or ſhe intends to range cattle, the number of acres he or ſhe is legally poſſeſſed of, and whether it is by patent, will, deed, or otherwiſe, with the date of ſuch patent, will, deed, or other inſtrument; and on any trial for a breach of this law, ſuch record ſhall be deemed good evidence againſt the owner or keeper of cattle, as to the number of acres ſuch perſon poſſeſſes; And if any perſon contrary to this act ſhall preſume to range, or keep a larger number of ſuch cattle than ten head to every hundred acres of land he, ſhe or they ſhall be legally poſſeſſed of as aforeſaid and ſo in proportion; all the cattle exceeding that proportion ſhall be forfeited and ſold by the ſheriff of the county wherein the ſaid cattle were ranged or kept, on legal proof made to the inferior court of the ſame county, by any freeholder thereof; the ſaid freeholder giving the owner or keeper of the ſaid cattle five days previous notice, that at the next inferior court to be held for the ſaid county, he intends to lodge a complaint againſt ſuch perſon, for ranging or keeping a greater number of cattle than he is by law entitled to range or keep in the ſaid county;

and on proof of ſervice of the ſaid notice perſonally, or by having a copy of the ſame left at the place of ſuch perſon's reſidence, the ſaid inferior court ſhall, without delay, proceed to hear the complaint in a ſummary way, without the ſolemnity of a jury, and determine according to evidence, and the right of the matter before them: And if judgment paſs for the complainant, the clerk ſhall forthwith iſſue an order to the ſheriff for the ſale of all ſuch cattle, agreeable to the judgment; which ſheriff ſhall, without delay, either by himſelf or deputy, execute the command of the ſaid order, and return the money to the next court; one third part thereof to be paid to the complainant, one third part thereof to be paid to the church-wardens of the pariſh, for the uſe of the poor, (being pariſhioners) and the remaining third part to be paid to the former owner of the cattle, if called for within twelve months, otherwiſe to be applied towards the contingent charge of the county.

3. *And be it further enacted by the authority aforeſaid,* That any perſon now having the care of any ſtock or number of cattle, the property of an inhabitant of any other province, or wherein an inhabitant of any other province hath any ſhare or intereſt, exceeding ten head of cattle to every hundred acres of land ſuch owner or keeper ſhall be poſſeſſed of as aforeſaid; the perſon in whoſe care the ſaid cattle are, ſhall, within ſix months next after the paſſing of this act, remove, or cauſe the ſaid overplus cattle to be removed out of the ſaid county; under the penalty of forfeiting the ſame, by judgment of the inferior court of the county; under the ſame rules and regulations aforeſaid.

4. And whereas much loſs or damage has often enſued to the inhabitant of this province, from diſtempered cattle being drove through the ſame: For remedy whereof, *Be it enacted by the authority aforeſaid,* That from and after the paſſing of this act, no perſon or perſons whatever, ſhall drive any cattle into this province, or from one county to another without having with him or them a certificate or certificates, under the hand and ſeal of a juſtice or juſtices of the peace of the county where the cattle were ſeverally and reſpectively purchaſed or brought; ſetting forth, that oath had been duly made by the reſpective owners, that ſuch cattle, at the time of the purchaſe or removal, were ſound, and free from any diſtemper or infection; and that no diſtemper or infection were known to be among cattle at that time within five miles from the place whence they came; and ſhall likewiſe mention the mark and brands of the ſaid cattle.

5. *And it is further enacted,* That every perſon or perſons who ſhall, after the paſſing of this act, drive any cattle into this province, or from one county to another within the ſame, without ſuch certificate or certificates as aforeſaid, ſhall forfeit and pay for every ſteer, bull, cow, calf or heifer, reſpectively, for which he ſhall have no certificate, the ſum of forty ſhillings; to be recovered by a warrant before any juſtice of the peace of the county where ſuch cattle ſhall then be, and be levied on the body, goods and chattels of the delinquent or de-

linquents, for the uſe of the county: And every perſon driving cattle as aforeſaid, is hereby required and directed to produce a certificate or certificates as aforeſaid at the requeſt of any perſon, a reſident in the county wherein ſuch cattle are; and upon his refuſal ſo to do, on complaint thereof made to any juſtice of the peace in the ſaid county, ſuch juſtice is hereby empowered and directed, to iſſue a warrant to bring ſuch drover or drovers before him; who for every ſuch refuſal, ſhall forfeit and pay the ſum of twenty ſhillings; and till the ſame is paid, the ſaid juſtice ſhall commit the offender to the gaol of the county, or iſſue an execution againſt his goods and chattels, as ſuch juſtice thinks moſt expedient; which forfeiture ſhall be applied to the uſe of the county, and accounted for at the next inferior court.

6. *And it is hereby further enacted*, That in caſe any cattle hereafter ſhall be ſuſpected to have any diſtemper, any two juſtices of the peace, and one freeholder, are hereby empowered and directed, to enquire into the ſame; and on due proof thereof made, ſhall make ſuch order therein, as may beſt tend to prevent the infection ſpreading.

1767

LAWS OF NORTH-CAROLINA.

At an Aſſembly, begun and held at Newbern, on the third day of November, in the year of our lord one thouſand ſeven hundred and ſixty-ſix; and from thence continued, by prorogations, to the fifth day of December, in the year of our lord one thouſand ſeven hundred and ſixty-ſeven: Being the ſecond ſeſſion of this preſent Aſſembly.

CHAP. VIII.

An act for regulating Ordinaries, and reſtraint of Tippling Houſes.

16. And to the end that ordinaries, or houſes of public entertainment, may be the more readily and generally known by travellers and others; *Be it therefore further enacted by the authority aforeſaid*, That every perſon who ſhall obtain a licence agreeable to the directions of this act, from and after the firſt day of March next, ſhall, within one month after obtaining licence as aforeſaid, ſet up, or cauſe to be ſet up in public view, at his dwelling-houſe, or the houſe where ſuch ordinary ſhall be kept, a ſign, with an inſcription thereon denoting the ſame to be an ordinary, or houſe of public entertainment, under the penalty of forfeiting forty ſhillings, proclamation money, for every month the ſaid ordinary, or houſe of entertainment, ſhall be kept, without having a public ſign ſet up as aforeſaid.

17. *And be it further enacted by the authority aforeſaid*, That all the penalties and forfeitures in this act, the method of receiving and applying whereof are not particularly directed, ſhall be one half to the governor or commander in chief for the time being, the other half to him or them who ſhall ſue for the ſame; to be recovered with coſts, before any juriſdiction having cognizance thereof.

18. *And be it further enacted by the authority aforeſaid*, That all and every act and acts, and every clauſe and article thereof, heretofore made, ſo far as relates to regulating ordinaries and reſtraint of tippling houſes, or to any other matter or thing whatſoever, within the purview of this act, is, and are hereby repealed and made void, to all intents and purpoſes whatſoever.

At an Aſſembly, begun and held at Newbern, the third day of November, in the year of our lord one thouſand ſeven hundred and ſixty-ſix, and from thence continued, by prorogation, to the ſeventh day of November, in the year of our lord one thouſand ſeven hundred and ſixty-eight: Being the third ſeſſion of this preſent Aſſembly.

CHAP. XIII.

An act to amend an act, entitled an additional act to an act, entitled an act to prevent killing Deer at an unſeaſonable time; and for putting a ſtop to many abuſes committed by white perſons under pretence of Hunting.

WHEREAS by the before recited act, perſons who have no ſettled habitation, or not tending five thouſand cornhills, are prohibited from hunting, under the penalty of five pounds, and forfeiture of his gun; which, by experience, has been found not to anſwer the purpoſes intended by the ſaid act; many diſorderly and diſſolute perſons, having no habitation of their own, ſtill continue to hunt on the king's waſte, and the lands of other perſons, and kill deer, and leave the carcaſes in the woods; by which means the wolves, bears, and other vermin, are fed and raiſed; to the great damage of many of the inhabitants of this province; and the fines being difficult of recovery, by means of perſons, having no property of their own aſſembling in great numbers, and camping in the woods, and kill deer, burn and deſtroy the range, burn fences, and commit many other injuries to the inhabitants of this province; and aſſociate, for the mutual protection and defence of each other, againſt any perſon or perſons who ſhall attempt to execute any precept on any of them: For remedy whereof;

2. *Be it enacted by the Governor, Council and Aſſembly, and by the authority of the ſame,* That from and after the firſt day of January next, no perſon whatever (maſters of ſlaves excepted) not having a freehold of one hundred acres of land within this province, or tending ten thouſand cornhills, at leaſt, five feet diſtance each, ſhall hunt or kill deer; under the penalty of ten pounds, proclamation money, for every offence; and moreover ſhall forfeit his gun, or the value thereof; to be recovered by action of debt, bill, plaint or information, in any court of record within this province, by any perſon who will proſecute for the ſame; wherein, upon conviction, over and above the ſaid penalty and forfeiture as aforeſaid, the defendant ſhall be committed to gaol, by order of the court; there to remain, without bail or mainprize, for one month.

3. *And be it further enacted by the authority aforeſaid,* That

upon action of debt, information or indictment, being proſecuted for the above penalty, the ſheriff who ſhall execute the writ, ſhall take two ſufficient ſecurities for the defendant's appearance, at the court to which the ſame, by the tenor thereof, is made returnable; which bail ſo taken, ſhall be ſubject and liable as in other caſes; and on failure thereof, or an exception being taken to the ſaid bail, the ſame ſhall be deemed inſufficient, then, and in that caſe, the ſheriff ſhall ſtand and be taken as ſpecial bail.

4. *Provided nevertheleſs*, That the ſheriff may ſurrender the defendant in diſcharge of himſelf, at any time before final judgment had againſt the defendant.

5. *Provided also*, That nothing herein contained, ſhall extend to bar or hinder an overſeer of a ſlave or ſlaves from hunting and killing deer with a gun on his employers lands, or the waſte lands of the king, or lord Greenville, within five miles of the reſidence of ſuch overſeer.

6. And whereas by reaſon of the inſurrections, of many illegal proceedings of ſundry of the inhabitants of this province, the county gaols are become almoſt uſeleſs; many perſons who are committed thereto being releaſed by force, the ſaid gaols being remote from the reſidence of the ſheriffs, who might prevent ſuch breakings as aforeſaid, by raiſing ſufficient force for that purpoſe: Therefore, *Be it enacted by the authority aforesaid*, That upon ſuit being commenced on action of debt, information, &c. in a ſuperior court, if the defendant ſhall fail to give ſuch ſecurity as aforeſaid, that then the ſheriff ſhall commit the defendant to the gaol of the ſuperior court for the diſtrict to which the ſame is made returnable.

7. *And be it further enacted by the authority aforesaid*, That the ſheriff ſhall have, for the ſervices he ſhall perform in a ſuit brought as aforeſaid, the ſame fees and allowances as in other caſes on action brought, information or indictment proſecuted, and ſubject and liable for taking greater fees, in the ſame manner as in other caſes.

8. *And be it further enacted by the authority aforesaid*, That no white perſon whatſoever ſhall, on any pretence, preſume to hunt with dogs, or otherwiſe, or drive or kill deer or game on any perſons lands, without leave of the owner of ſuch land; under the penalty of five pounds, proclamation money, for each offence; to be recovered by action of debt, in the inferior court of the county wherein the offence ſhall be committed, by the owner of the ſaid land.

1770

LAWS OF NORTH CAROLINA.

At an Aſſembly, begun and held at Newbern, the fifth day of December, in the year of our lord one thouſand ſeven hundred and ſeventy: Being the firſt ſeſſion of this preſent aſſembly.

CHAP. VI.

An act to amend an act, entitled, an act for appointing Sheriffs, and directing their duty in office.

WHEREAS many hardſhips and inconveniencies have ariſen from ſheriffs leaving this province before they had accounted for the public, county and pariſh taxes, whereby their ſecurities have become liable for the ſame; and no proviſion having been made in the ſaid act for the relief of ſuch ſecurities:

2. *Be it therefore enacted by the Governor, Council, and Aſſembly, and by the authority of the ſame,* That every ſheriff who hath already removed himſelf, or hereafter may remove himſelf out of this province, and ſhall not have accounted for the public, county and pariſh taxes, whereby the ſecurities of ſuch ſheriff have or may become liable for the ſame, it ſhall and may be lawful for ſuch ſecurities, their heirs, executors, or adminiſtrators, to receive and collect all the arrears of taxes which ought to have been collected by ſuch ſheriffs; and if any perſon or perſons liable to pay ſuch taxes, ſhall or may fail to pay the ſame to the ſheriffs ſecurities as aforeſaid, it ſhall and may be lawful for ſuch ſecurities, their heirs, executors and adminiſtrators, to make diſtreſs for all ſuch arrears of taxes, in the ſame manner as ſheriffs are by law empowered to diſtrain.

3. *Provided always,* That no ſuch diſtreſs ſhall be made until public notice be firſt given to the inhabitants of the county, by advertiſing the ſame at the court-houſe and ſeveral chapels within ſaid county, at leaſt one month next before ſuch diſtreſs is intended to be made.

At an Aſſembly, begun and held at Newbern, the twenty-fifth day of January, in the year of our lord one thouſand ſeven hundred and ſeventy-three; Being the firſt ſeſſion of this Aſſembly.

CHAP. IV.

An act for the relief of inſolvent debtors, with reſpect to the impriſonment of their perſons.

I. *Be it enacted by the governor, council and aſſembly, and by the authority of the ſame,* That if any perſon or perſons now are, or hereafter ſhall be taken or charged on meſne proceſs or execution for any debt, and ſhall have remained in cloſe priſon by the ſpace of twenty days, it ſhall and may be lawful for two juſtices of the peace, or any two of the judges of the inferior, or any one of the judges of the ſuperior courts of this province, either in or out of court, upon petition or petitions of ſuch priſoner, under his or their hands and ſeals, whereof notice ſhall be given to the perſon or perſons, his or their executors, adminiſtrators, attornies, or agents, at whoſe ſuit ſuch priſoner or priſoners ſhall be impriſoned, to require the ſheriff, gaoler, or keeper of any priſon, within their reſpective juriſdictions, to bring before ſuch juſtices of the peace, judges of the inferior court of pleas and quarter-ſeſſions, or judge of the ſuperior court, iſſuing ſuch warrant, either in or out of court, the body of any perſon being in priſon as aforeſaid, together with a liſt of the ſeveral writs, meſne proceſſes, and executions, with which he, ſhe or they, is or are charged in the ſeveral gaols as aforeſaid; which warrant every ſuch ſheriff, gaoler or keeper, is hereby commanded to obey: And ſuch priſoner or priſoners coming before the ſaid juſtices or judges, (the creditor or creditors, if reſident in this province, at whoſe ſuit he is confined, being firſt perſonally ſummoned, according to this act) if he, ſhe or they have no viſible eſtate, real or perſonal, and ſhall make oath before the ſaid juſtices of the peace, or judges of the inferior court, or judge of the ſuperior court reſpectively, iſſuing ſuch warrant, that he hath not the worth of forty ſhillings, ſterling money, in any wordly ſubſtance, either in debts owing to him, or otherwiſe howſoever, over and beſides his wearing apparel, working tools and arms for muſter; and that he has not at any time ſince his impriſonment, or before, directly or indirectly ſold, aſſigned, or otherwiſe diſpoſed of, or made over, in truſt for himſelf or otherwiſe, any part of his real or perſonal eſtate, whereby to have or expect any benefit or profit to himſelf, or to defraud any of his creditors to whom he is indebted, and if there be no perſon preſent that can prove the contrary, then ſuch perſon, by ſuch court or juſtices, 1778 without form of trial, ſhall be immediately ſet at liberty: But in caſe ſuch perſon ſhall afterwards be diſcovered to have ſworn falſely, he ſhall be indicted for perjury; and if convicted, ſhall loſe both his ears in the pillory, and be liable to ſatisfy the debt and damages, and be rendered incapable of taking the benefit of this act.

2. *And be it further enacted*, That the ſaid juſtices of the peace, judges of the inferior, and judge of the ſuperior court, reſpectively, before whom ſuch priſoner or priſoners ſhall, upon oath, have diſcharged themſelves, when the proceedings are before them out of court, ſhall put the ſame in writing, under their hands, and return the ſame into the court from whence the meſne proceſs or execution iſſued, there to be kept on record, under the penalty of five pounds, proclamation money, for each judge or juſtice for ſuch omiſſion and neglect; to be paid to the perſon injured, by order of the ſaid court.

3. *And be it further enacted*, That if any perſon or perſons now are, or hereafter ſhall be taken or charged in meſne proceſs or execution for any ſum, and ſhall have remained in priſon by the ſpace of twenty days, and ſhall have any eſtate, real or perſonal, and be minded to deliver up his, her or their effects, to his or their creditors, it ſhall be lawful for ſuch priſoner to prefer a petition to the court from whence the proceſs iſſued, ſetting forth the cauſe of impriſonment, and an exact account of his or their eſtate, and all circumſtances relating thereto; which petition, ſubſcribed by him, her or them, and ſchedule, ſhall be lodged with the clerk of the ſaid court from which ſuch proceſs iſſued, twenty days at leaſt before the next ſucceeding court: And upon ſuch petition ſo filed, the clerk of the ſaid court ſhall iſſue, under his hand and ſeal, a copy of the ſaid ſchedule, and a notice to the creditor or creditors, at whoſe ſuit ſuch priſoner or priſoners are or ſhall be confined, ſetting forth the ſubſtance of the ſaid petition, and ſummoning of them to attend the next ſucceeding court, to ſhew cauſe, if any they have, why the prayer of the ſaid petition ſhould not be granted; which notice being duly ſerved upon the perſon or perſons, his, her or their executors, adminiſtrators, attorney or agent, at whoſe ſuit ſuch priſoner or priſoners ſhall be impriſoned, ten days at leaſt before the ſitting of the ſaid court, the court ſhall order the ſaid priſoner or priſoners to be brought before them; and if the ſaid creditor or creditors, at whoſe ſuit he is impriſoned, ſhall appear, or being duly ſummoned ſhall fail to appear, the court ſhall proceed to examine the nature of the ſaid petition in a ſummary way, and ſhall tender to ſuch perſon an oath, to the effect following;

I A. B. in the preſence of almighty god, ſolemnly, ſwear, profeſs and declare, that the ſchedule now delivered, and by me ſubſcribed, doth contain, to the beſt of my knowledge and remembrance, a full, juſt, true and perfect account and diſcovery, of all the eſtate, goods and effects, unto me any ways belonging, and ſuch debts as are to me owing, or to any perſon in truſt for me; and of all ſecurities and contracts, whereby any money may hereafter become payable, or any benefit or advantage accrue to me or to my uſe, or to any other perſon or perſons in truſt for me; and that I, or any other perſon or perſons in truſt for me, have not land, money or ſtock, or any other eſtate, real or perſonal, in poſſeſſion, reverſion, or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly, ſold, leſſened or otherwiſe diſpoſed of in truſt, or concealed, all or any part of my lands, money, goods, ſtocks, debts, ſecurities, contracts or eſtate, whereby to ſecure the ſame, to receive or expect any profit or advantage thereof, or to defraud or deceive any creditor or creditors to whom I am indebted, in any wiſe howſoever.—So help me God.

4. *Be it further enacted*, That if ſuch priſoner take ſuch oath, and the court be convinced of the truth thereof, the ſchedule ſo ſubſcribed being filed with the clerk of the court for the better information of the creditors of ſuch priſoner or priſoners, then, and in that caſe, it ſhall and may be lawful for the court before whom ſuch oath was taken, by warrant, to command the ſheriff, gaoler or keeper of any priſon forthwith to ſet at liberty ſuch priſoner; which warrant ſhall be a ſufficient diſcharge to ſuch ſheriff, gaoler or keeper, and ſhall indemnify him or them againſt any eſcape or eſcapes, or action or actions, whatſoever, which ſhall or may be brought, commenced or proſecuted, againſt him or them by reaſon thereof; and if any ſuch action ſhall be commenced againſt any ſheriff or other officer, for performing his duty in purſuance of this act, ſuch ſheriff or other officer may plead the general iſſue, and give this act in evidence.

5. *And be it further enacted by the authority aforeſaid*, That all the lands, tenements and hereditaments, which ſhall be contained in ſuch ſchedule, for ſuch uſe, intereſt, right, or title, as ſuch priſoner or priſoners then ſhall have in the ſame which he or ſhe may lawfully depart withall, and alſo all goods and chattels whatſoever in ſuch ſchedule alſo contained, ſhall be veſted in the ſheriff of the county wherein ſuch lands, tenements, hereditaments, goods and chattels, ſhall lie, or be found; and ſuch ſheriff is hereby authoriſed, empowered, and required, to ſell at public vendue, and convey the ſame to any perſon or perſons whatſoever for the beſt price that can be got for the ſame, and the monies ariſing by ſuch ſale ſhall be by ſuch ſheriff or officer, upon oath, paid into the hands of the clerk of the ſuperior court of the diſtrict where ſuch priſoner ſhall be confined, for the uſes and purpoſes hereafter mentioned; ſaving to every ſuch priſoner his or her neceſſary apparel and utenſils of trade.

6. *And be it further enacted by the authority aforeſaid*, That the judges of the ſuperior court ſhall appoint two commiſſioners, who ſhall have full power to examine into the claims of all and ſingular the creditors of the perſon or perſons impriſoned, as well thoſe at whoſe ſuit he was committed, as of all others; and the ſaid commiſſioners ſhall by advertiſement, at the court-houſe of the diſtrict, or in ſome public news-paper or Gazette, make known the time at which they propoſe to examine ſuch claims (which ſhall be within ſixty days after their being appointed) and upon ſuch creditors, their executors or

adminiſtrators, agents or attornies, appearing before them, and ſatisfying them of the juſtice of their claims, they ſhall proceed to make diſtribution amongſt each and every of the creditors ſo appearing in proportion to their reſpective demands ; and the clerk of the ſaid court is hereby directed to pay ſuch monies ſo received upon the ſale of ſuch inſolvents eſtate into the hands of the ſaid commiſſioners, for the purpoſes aforeſaid.

7. *And be it further enacted by the authority aforesaid,* That the perſon of ſuch debtor ſo diſcharged ſhall never be arreſted for the ſame debt.

8. *And be it further enacted by the authority aforesaid,* That whereas it has ſometimes happened that poor inſolvent debtors have been a long time confined in Goal, for want of knowing to whom to give notice of their intention to take the benefit of the act for relief of ſuch individuals, where the party at whoſe ſuit ſuch debtor was in execution did not reſide in this Colony, nor had any known agent or attorney here to whom he could give ſuch notice, which by the laws in force in ſuch caſes is required to be given ; which long confinements have alſo happened in caſes where debtors have remained in priſon twenty days, and the ſheriff or goalers have not known to whom to give notice thereof, or of whom to demand ſecurity for their priſon fees after the expiration of 20 days : For the further relief therefore of ſuch inſolvent debtors, *Be it enacted by the authority aforesaid,* That when the party at whoſe ſuit or inſtance any ſuch debtor ſhall be confined in execution does not reſide in this colony, nor hath any known agent or attorney here, it ſhall and may be lawful and ſufficient for ſuch inſolvent debtor to give notice of ſuch his intention to take the benefit of the ſaid act for relief of inſolvents, to the attorney at law who proſecuted the ſuit againſt him ; and alſo where the debtor ſhall have remained in execution for the ſpace of twenty days, it ſhall be lawful and ſufficient for the ſheriff or goaler, in the like caſes, to give notice thereof to the attorney who proſecuted the ſuit and to demand ſecurity of him for the priſon fees that ſhall ariſe after the expiration of the twenty days ; and if he ſhall fail or refuſe to give ſuch ſecurity, then to diſcharge ſuch debtor out of cuſtody.

9. *And be it further enacted by the authority aforesaid,* That if at any time hereafter any perſon being taken or charged on meſne proceſs or execution, ſhall not be able to ſatiſfy or pay his or her priſon fees, ſhall after the expiration of twenty days be diſcharged by the creditor, and the ſheriff or goaler may demand or recover of the party or parties at whoſe ſuit ſuch inſolvent perſon ſhall be impriſoned, all ſuch fees as ſhall become due on account of ſuch impriſonment.

10. *And be it further enacted by the authority aforesaid,* That if any perſon who ſhall take ſuch oath, ſhall upon indictment of perjury, be convicted thereon, he ſhall ſuffer all the pains of wilful perjury, and ſhall be liable to be taken on a new proceſs, and ſhall never after have the benefit of this act.

11. *And be it further enacted by the authority aforesaid,* That where by this act an oath is required the ſolemn affirmation of

a Quaker ſhall be taken in lieu thereof; and every perſon convicted of wilful and falſe affirming, ſhall ſuffer the like penalties as for woeful and corrupt perjury.

12. *And be it further enacted*, That every law heretofore made, reſpecting the relief of poor debtors as to the impriſonment of their perſons, be repealed and made void.

LAWS OF NORTH-CAROLINA.

At an Aſſembly, begun and held at Newbern, the ſecond day of March, in the year of our lord one thouſand ſeven hundred and ſeventy-four: Being the ſecond ſeſſion of this Aſſembly.

CHAP. VI.

An act to prevent the pernicious practice of hunting with a gun in the night by fire light.

5. AND whereas from the circumſtances of ſecrecy which attend the perpetration of ſuch offences, it is in moſt inſtances impracticable to convict offenders by indifferent teſtimony: *Be it therefore enacted by the authority aforesaid*, That when more perſons than one are engaged in the commiſſion of ſuch offence, it ſhall and may be lawful for one of them to give evidence againſt any one, or all others concerned; and his teſtimony ſhall be held and deemed to be as effectual, and ſhall have equal weight, as if given by any perſon perfectly diſintereſted and innocent of the offence giving like information of the ſame facts, ſubject in other reſpects to the general rules of law reſpecting witneſſes: And ſuch witneſs, upon giving ſuch information, and after due conviction of one or more ſuch offenders, ſhall be acquitted, and held diſcharged from all penalties and pains to be inflicted by this act; and ſhall have equal right to the moiety of the fine heretofore mentioned as other informers have.

At a Congreſs of the Repreſentatives of the freemen of the State of North-Carolina, aſſembled at Halifax, the ſeventeenth day of December, in the year of our lord one thouſand ſeven hundred and ſeventy-ſix, for the purpoſe of eſtabliſhing a conſtitution or form of government for the ſaid ſtate.

A Declaration of Rights.

9. THAT no freeman ſhall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court as heretofore uſed.

An Ordinance of the State of North-Carolina to ſecure the titles of Church lands and houſes of public worſhip, to the proprietors thereof, and quiet them in the peaceable poſſeſſion of the ſame.

WHEREAS controverſies may ariſe concerning the titles, property and occupancy of glebes, church lands, and the ſeveral churches, chaples and other houſes built for the purpoſe of public worſhip in this ſtate, and ſuch controverſies might prove injurious to the peace and tranquility thereof; For prevention whereof.

2. *Be it ordained and declared by the Repreſentatives of the freemen of the State of* North-Carolina, *in Congreſs Aſſembled and by the authority of the ſame*, That all glebes, lands and tenements, heretofore purchaſed, given or deviſed for the ſupport of any particular miniſtry or mode of worſhhip; and all churches, chaples and other houſes built for the purpoſe of public worſhip, ſhall be and remain forever to the uſe and occupancy of that religious ſociety, church, ſect, denomination, to or for which the ſaid glebes, lands and tenements were ſo purchaſed, given or deviſed, or the ſaid churches, chaples or other houſes of public worſhip were built.

At a General Aſſembly, begun and held at *Newbern*, on the eighth day of April, in the year of our lord one thouſand ſeven hundred and ſeventy-ſeven, and in the firſt year of the Independence of the ſaid ſtate; Being the firſt ſeſſion of this Aſſembly.

CHAP. IV.

An Act concerning Oaths.

WHEREAS lawful oaths, for the diſcovery of truth, and eſtabliſhing right, are neceſſary, and highly conducive to the important ends of good government; and being moſt ſolemn appeals to almighty god, as the omniſcient witneſs of the truth, juſt and omnipotent avenger of falſehood, ſuch oaths ought therefore to be taken and adminiſtered with the utmoſt ſolemnity:

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and by the authority of the ſame,* That judges, juſtices of the peace, and other perſons, who are or ſhall be empowered to adminiſter oaths, ſhall (except in the caſes in this act excepted) require the party to be ſworn to lay his hand upon the holy evangeliſts of almighty god, in token of his engagement to ſpeak the truth, as he hopes to be ſaved in the way and method of ſalvation pointed out in that bleſſed volume, and in further token, that if he ſhould ſwerve from the truth, he may juſtly be deprived of all the bleſſings of the goſpel, and made liable to that vengeance which he has imprecated on his own head; and after repeating the words ſo help me god, ſhall kiſs the holy goſpels, as a ſeal of confirmation to the ſaid engagements.

3. *And be it enacted by the authority aforeſaid,* That in all caſes when any judges, juſtices of the peace, or other perſons, are or ſhall be empowered to adminiſter any manner of oath in this ſtate, and the perſon to be ſworn ſhall be conſcientiouſly ſcrupulous of taking a book oath in manner aforeſaid, and pray the benefit of this act, it ſhall and may be lawful for all ſuch judges, juſtices, and other perſons, and they and each of them, are hereby required to excuſe ſuch perſon from laying hands upon or touching the holy goſpels; and the ſaid judges, juſtices, and others, are hereby directed in ſuch caſe to adminiſter the oath required, in the following manner, to wit: The party ſo conſcientiouſly ſcrupulous, and praying the benefit of this act, ſhall ſtand with his right hand lifted up towards heaven, in token of his ſolemn appeal to the ſupreme god, whoſe dwelling is in the higheſt heavens, and alſo in token, that if he ſhould ſwerve from the truth, he would draw down the venge-

ance of heaven upon his head, and ſhall introduce the intended oath with theſe words, viz. I A. B. do appeal to god as a witneſs of the truth and avenger of falſehood, as I ſhall anſwer the ſame at the great day of judgment, when the ſecrets of all hearts ſhall be known, that, &c. as the words of the oath may be. And it is hereby declared, that an oath thus adminiſtered and taken, with the right hand lifted up, is and ſhall be a lawful oath in this ſtate; and ſuch oath ſhall be admitted and uſed in all courts in this ſtate where the ſame ſhall be requeſted as aforeſaid, and ſhall be equally good and valid in law, to all intents and purpoſes, as if the ſame oath had been taken by the party, having laid his hand upon, and kiſſed the holy goſpels.

4. *And be it enacted by the authority aforesaid*, That the ſolemn affirmation of quakers, moravians, and menoniſts, made in the manner heretofore uſed and accuſtomed, ſhall be admitted as evidence in civil controverſies in this ſtate; and where other perſons are required to take an oath or oaths to the ſtate, the ſaid quakers, moravians and menoniſts, ſhall make their ſolemn affirmations in the words of the ſaid oath or oaths, beginning after the words ſwear, or ſhall make ſuch affirmations as ſhall be hereafter provided for them by law.

CHAP. V.

An act for the puniſhment of ſuch perſons as ſhall procure or commit any wilful perjury.

1. *Be it enacted by the General Assembly of the state of* North-Carolina, *and by the authority of the same,* That every perſon who at any Time after the tenth day of *May*, ſhall unlawfully and corruptly procure or ſuborn any witneſs or witneſſes, by letters, rewards, promiſes or by any other ſiniſter and unlawful labor or means whatſoever, to commit any wilful and corrupt perjury, in any matter or cauſe whatſoever now depending, or which hereafter ſhall depend in ſuit and variance, by any writ, action, bill, complaint, indictment or information, in any wiſe touching or concerning any crime or offence, or touching or concerning any lands, tenements, or heriditaments, or any goods, chattels, debts, damages, or other eſtate or intereſt whatſoever in any court of Equity, Superior court, court of Appeals and writs of Error, court of Oyer and Terminer, Inferior or county court, or any court of Record that ſhall be eſtabliſhed in this ſtate, or before any commiſſioner or commiſſioners authoriſed to take depoſitions to be given in evidence in any ſuch court, or who ſhall in the manner, or by any the means aforeſaid unlawfully and corruptly procure or ſuborn any witneſs or witneſſes, which ſhall from and after the ſaid tenth day of May, be ſworn to give teſtimony for the purpoſe of perpetuating the ſame every ſuch offender of the ſame being lawfully convicted in any court having cognizance thereof, ſhall ſtand in the Pillory one hour have his or her right ear nailed thereto, and be further puniſhed by fine and impriſonment, at the diſcretion of the

court; and every ſuch offender ſhall be diſcredited, and diſallowed forever to be ſworn as a witneſs in any of the courts of record, before commiſſioners, or ſworn to give teſtimony for the perpetuating the ſame as aforeſaid.

CHAP. VI.

An act to prevent domeſtic inſurrections, and for other purpoſes.

WHEREAS the evil and pernicious practice of freeing ſlaves in this ſtate, ought at this alarming and critical time to be guarded againſt by every friend and wellwiſher to his country:

2. *Be it therefore enacted by the General Aſsembly of the ſtate of North-Carolina, and by the authority of the ſame,* That no negro or mulatto ſlave ſhall hereafter be ſet free, except for meritorious ſervices, to be adjudged of and allowed by the county court, and licence firſt had and obtained thereupon. And when any ſlave is or ſhall be ſet free by his or her maſter or owner otherwiſe than is herein before directed, it ſhall and may be lawful for any freeholder in this ſtate, to apprehend and take up ſuch ſlave, and deliver him or her to the ſheriff of the county, who, on receiving ſuch ſlave, ſhall give ſuch freeholder a receipt for the ſame; and the ſheriff ſhall commit all ſuch ſlaves to the gaol of the county, there to remain until the next court to be held for ſuch county; and the court of the county ſhall order all ſuch confined ſlaves to be ſold during the term to the higheſt bidder.

3. *Provided always,* That the Sheriff, upon committing any ſuch ſlave or ſlaves, ſhall at leaſt five days before ſuch ſale, give notice in writing to the laſt owner or owners or the reputed owner or owners of ſuch ſlave or ſlaves, of the time and place of ſale, and of the name or names of ſuch ſlaves, to the end that ſuch owner or owners may, if he or they think proper make his or her claim to the ſame; but if ſuch owner or owners ſhall neglect or refuſe to appear on the day of ſale (due proof of the ſervice of ſuch notice being made to the ſatisfaction of the court) ſuch owner or owners, ſo neglecting or refuſing ſhall be forever barred from making any claim to ſuch ſlaves.

4. *And be it further enacted by the authority aforeſaid,* That the neet proceeds of the money ariſing by ſuch ſale ſhall be diſpoſed of in the following manner, that is to ſay, that one-fifth part thereof ſhall be paid to the takers up of ſuch negroes or mulattoes, and that the remaining part of ſuch money be paid into the hands of the public treaſurers, to defray the contingent charges of government, and to no other intent, uſe or purpoſe whatſoever.

5. *And be it further enacted by the authority aforeſaid,* That if any ſlave or ſlaves ſhall hereafter be allowed by his or her maſter, miſtreſs, or overſeer, or other perſon having the care of ſuch ſlave or ſlaves, to hire out him or herſelf, ſuch ſlave may be taken up by any magiſtrate or freeholder, and kept to hard

labor, for the uſe of the poor of the county, for any time not exceeding twenty days ; any law, uſage or cuſtom to the contrary notwithſtanding.

C H A P. VIII.

An act for appointing ſheriffs and directing their duty in office and for obliging the late ſheriffs and collectors of public monies who are in arrear to account for and pay the ſame and other purpoſes.

2. *And be it enacted by the authority aforeſaid*, That every perſon accepting the office of ſheriff ſhall before his executing the ſame, in his county court take the oath appointed for the qualification of public officers, and alſo the following oath, to wit:

I A. B. do ſolemnly ſwear, that I will execute the office of ſheriff of county to the beſt of my knowledge and ability, agreeable to law ; and that I will not take, accept or receive, directly or indirectly, any fee, gift, bribe, gratuity or reward whatſoever, for returning any man to ſerve as a juror, or for making any falſe return on any proceſs to me directed. And I alſo ſwear, that I have not given any fee, gift, gratuity, or reward, or other thing whatſoever, to any perſon or perſons for his or their vote or intereſt to procure me to be nominated to the ſaid office ; nor will I hereafter give to any perſon or perſons ſuch fee, gift, gratuity or reward, for having procured, or contributed to procure me to be nominated thereto. So help me God.

And ſuch ſheriff ſhall alſo enter into bond, before the juſtices of his county court, with two or more good and ſufficient ſecurities, in the penalty of five thouſand pounds, payable to the governor and his ſucceſſors, with condition in form following, that is to ſay,

The condition of the above obligation is ſuch, that whereas the above bounden is conſtituted and appointed ſheriff of county, by a commiſſion from the governor, under the ſeal of the ſtate, dated the day of laſt paſt ; if therefore the ſaid ſhall well and truly execute and due return make of proceſs and precepts to him directed, and pay and ſatisfy all fees and ſums of money by him received or levied by virtue of any proceſs into the proper office, by which the ſame by the tenor thereof ought to be paid, or to the perſon or perſons to whom the ſame ſhall be due, his, her or their executors, adminiſtrators, attornies or agents, and in all other things well, truly and faithfully, execute the ſaid office of ſheriff, during his continuance therein, then the above obligation to be void, otherwiſe to remain in full force and effect.

Which ſaid bond every county court is hereby required and empowered to demand and take, and cauſe to be acknowledged before them in open court, and recorded ; and upon a breach of the condition of ſuch bond, the ſame ſhall be aſſigned by the governor to the party or parties injured, who may maintain an action thereon, in his or their name; and no ſuch bond ſhall become void upon the firſt recovery, or if judgment ſhall be given for the defendant, but may be put in ſuit and proſecuted from time to time, until the whole penalty ſhall be recovered.

3. *And be it further enacted by the authority aforeſaid,* That if any perſon who ſhall hereafter be appointed ſheriff by virtue of this act, ſhall refuſe to accept and execute the office of ſheriff, he ſhall forfeit and pay the ſum of fifty pounds lawful money of this ſtate, to the uſe of the public; to be recovered in the name of the governor, by action of debt, in any court having cognizance thereof. Provided always, That if any perſon who ſhall hereafter be nominated or appointed to execute the office of ſheriff of any county in this ſtate, ſhall be willing to execute the ſame, but cannot give ſecurity as by this act is required, and ſhall make oath in the county court that he hath uſed his beſt endeavours, without fraud or colluſion, to get ſuch ſecurities, that then ſuch perſon ſhall not incur the penalty aforeſaid, any thing herein contained to the contrary notwithſtanding.

4. *Provided further, and be it enacted by the authority aforeſaid,* That no member of the General Aſſembly, or council of ſtate, ſhall be nominated or commiſſioned, nor ſhall any practiſing attorney be obliged to act as ſheriff of any county within this ſtate.

5. *And be it further enacted by the authority aforeſaid,* That every ſheriff, by himſelf or his lawful officers or deputies, ſhall from time to time execute all writs and other proceſs to him legally iſſued and directed within his county, or upon any bay, river, or creek, adjoining thereto, and make due return thereof, under the penalty of forfeiting fifty pounds lawful money of this ſtate for each neglect where ſuch proceſs ſhall be delivered to him twenty days before the ſitting of the court to which the ſame is returnable, to be paid to the party grieved by order of ſuch court, upon motion and proof of ſuch delivery, unleſs ſuch ſheriff can ſhew ſufficient cauſe to the court at the next ſucceeding court after ſuch order; and for every falſe return the ſheriff ſhall forfeit and pay fifty pounds, one moiety thereof to the party grieved, and the other moiety to him or them that will ſue for the ſame; to be recovered with coſts, by action of debt, bill or plaint, in any court of record, and moreover be further liable to the action of the party grieved for damages; and no ſheriff ſhall return upon any writ that the defendant is not to be found within his bailiwick, unleſs ſuch ſheriff ſhall have actually been at the houſe or place of abode of ſuch defendant; and where any defendant ſhall be a known inhabitant of any other county than that of the ſheriff to whom ſuch proceſs ſhall be directed, the ſheriff ſhall return the truth of the caſe, and thereupon an alias ſhall iſſue, directed to the ſheriff where ſuch defendant reſides, if the original proceſs ſhall iſſue from a ſuperior court, and variance of the addition of the place of abode of the defendant ſhall not be

deemed error, or matter of abatement: And in caſe at any time there ſhall be no perſon properly qualified to act as ſheriff in any county in this ſtate, that then it ſhall and may be lawful for the coroner of ſuch county, and he is hereby required to execute all proceſs within the ſame, until ſome perſon ſhall be appointed, and properly qualified, to act as ſheriff in ſaid county; and ſuch coroner ſhall be under the ſame rules and regulations, and ſubject to the ſame fines and forfeitures, as ſheriffs are by law, in relation to the executing and returning of any proceſs to them directed.

6. *Provided always*, That it ſhall not be lawful for any ſheriff, or other officer, to execute any writ or other proceſs upon a Sunday, or upon any perſon attending his duty at a muſter of the militia, or any election of burgeſs or burgeſſes, or overſeers of the poor, or county wardens, or any perſon ſummoned to attend as an evidence or a juror; and all ſuch ſervices of proceſs is hereby declared illegal and void, unleſs the ſame be iſſued againſt any perſon or perſons for treaſon, felony, riot, reſcues, breach of the peace, or upon an eſcape out of priſon or cuſtody, and ſuch proceſs ſhall and may be executed at any time or place.

7. *And be it further enacted by the authority aforeſaid*, That from and after the firſt court which ſhall happen after the firſt day of January next, each and every ſheriff within this ſtate ſhall, on levying any execution for any debt, damages or coſts, make out, if required, a bill of his fees due on ſuch action or ſuit, and ſet down under the ſaid bill a true copy of the clerk's, attorney's and other endorſed fees, ſeperately and diſtinctly, and give a receipt for the ſame to the party againſt whom ſuch execution ſhall iſſue, and alſo ſhall endorſe the amount of his own fees he ſhall ſo take on ſuch execution, to be entered by the clerk on the execution docket, for which copy the ſaid ſheriff may demand and receive one ſhilling of the perſon requeſting the ſame; and if any ſheriff, or other officer, empowered to levy any execution, ſhall fail ſo to do, ſuch ſheriff or other officer ſhall forfeit and pay fifty pounds, to any perſon who will ſue for the ſame.

8. *And be it enacted by the authority aforeſaid*, That it ſhall not be lawful for any ſheriff, or his officer or deputy, to take any obligation of or from any perſon or perſons in his cuſtody, for or concerning any matter or thing relating to his office, otherwiſe payable than to himſelf as ſheriff, and diſchargeable upon the priſoner's appearance, and rendering himſelf at the day and place required in the writ, whereupon he was or ſhall be taken or arreſted, and his ſecurities diſcharging themſelves therefrom as ſpecial bail of ſuch priſoner, or ſuch perſon or perſons keeping within the limits and rules of any priſon; and every other obligation taken by any ſheriff in other manner or form, by colour of his office, ſhall be null and void, except in any ſpecial caſe any other obligation is or ſhall be by law particularly and expreſsly directed: And that no ſheriff ſhall demand, exact, take or receive, any greater fee or reward whatſoever, nor ſhall have any allowance, reward or ſatisfaction, from the public, for any ſervice by him done, other than ſuch

ſum as the county court ſhall allow for ex officio ſervices, and the allowances given and provided, or which ſhall be from time to time given and provided by law.

9. *And be it further enacted by the authority aforeſaid,* That if any perſon committed, rendered, or charged in execution, or upon meſne proceſs, to any priſon, ſhall thence eſcape, it ſhall and may be lawful to and for any juſtice of the peace of the county where ſuch priſoner was in cuſtody, upon oath of ſuch eſcape made before him by the ſheriff, under-ſheriff, or gaoler, or other credible perſon, to grant to any perſon demanding the ſame, one or more warrant or warrants, under his hand and ſeal, directed to all ſheriffs, bailiffs and conſtables within this ſtate, reciting the cauſe of ſuch perſon's commitment, and the time of his or their eſcape, and commanding them, and every of them in their reſpective counties and precincts, to ſeize and re-take ſuch priſoner ſo eſcaped or going at large, and being ſo taken, forthwith to convey to the priſon where debtors are uſually kept in the county where ſuch re-taking ſhall be, there to be kept in ſafe cuſtody until he or ſhe be thence diſcharged by due courſe of law; which warrant the ſheriff is required to obey, and receive the priſoner into his ſafe cuſtody, and to give a note to the perſon or perſons delivering him, her or them, certifying his receipt of ſuch priſoner: and ſhall alſo make return of the execution of ſuch warrant to the court of the county where ſuch priſoner eſcaped; and if he or ſhe was there in cuſtody charged in execution, then the ſaid ſheriff ſhall ſafely keep him or her without bail or mainprize, until he or ſhe ſhall have made full payment and ſatisfaction to the plaintiff or plaintiffs, creditor or creditors, in whoſe name ſuch execution was iſſued out, or until the judgment or judgments obtained againſt him or her ſhall be reverſed or diſcharged by due courſe of law: And if any ſuch priſoner ſhall have been in cuſtody upon meſne proceſs in any action of debt, or upon the caſe, the ſheriff to whom he or ſhe ſhall be ſo committed ſhall, in like manner, keep ſuch priſoner in his ſafe cuſtody, and make return of the execution of the warrant by which he or ſhe was re-taken to the court of the county wherein he or ſhe was firſt arreſted; and thereupon it ſhall be lawful for the ſaid court, upon the plaintiff's filing his declaration, and entering the defendant's appearance, to proceed to give judgment thereon, in the ſame manner as if the defendant had appeared in court and refuſed to plead, unleſs ſuch defendant ſhall cauſe ſpecial bail to be entered in ſaid court, and ſhall immediately plead to iſſue; and thereupon a certificate under the hand of the clerk of the ſaid court, that ſuch bail is given and delivered to the ſheriff in whoſe cuſtody ſuch defendant ſhall then be, it ſhall be lawful for him to ſet at large ſuch priſoner, and not otherwiſe; but where any priſoner eſcaped, and re-taken upon ſuch warrant as aforeſaid, ſhall thereafter be charged with treaſon, felony, or other capital crime, in behalf of this ſtate, for which he or ſhe ought to be tried in one of the ſuperior courts, and ſhall be for ſuch cauſe removed to any gaol of ſuch court, every ſuch priſoner ſhall be charged in ſuch gaol with all the cauſes wherewith he or ſhe ſtood charged

in the gaol from whence he or ſhe eſcaped, or was removed, until he or ſhe be thence delivered by due courſe of law; any law, uſage or cuſtom to the contrary notwithſtanding.

10. *And be it further enacted by the authority aforesaid,* That if any ſheriff or other officer hath made or ſhall make any return upon any writ of fieri facias or venditioni exponas, that he hath levied the debt, damages and coſts, or fees, as in ſuch writ required, or any part thereof, and hath not or ſhall not pay the ſame into the proper office, or to the party to whom the ſame is payable, or his attorney, at the return of ſuch writ, or hath or ſhall return upon any writ of capias ad ſatisfaciendum, or attachment, for not performing a decree in chancery for the payment of any ſum of money or other matter, that he hath taken the body or bodies of any defendant or defendants, and hath the ſame ready to ſatisfy the money or other matter in ſuch writ mentioned, and ſhall have actually received the money or other matter from the defendant or defendants, or any part thereof, or ſuffered him, her or them, to eſcape with conſent of ſuch ſheriff or officer, and hath not or ſhall not pay the ſame into the proper office, or to the party to whom the ſame is payable, or his attorney, that then and in either of the ſaid caſes, it ſhall and may be lawful for the creditor, at whoſe ſuit of fieri facias, venditioni exponas, capias ad ſatisfaciendum, or attachment, hath or ſhall iſſue, upon motion made in the court from whence ſuch writ iſſued, or in the ſuperior court of the diſtrict wherein ſuch ſheriff ſhall reſide, to demand judgment againſt ſuch ſheriff or other officer for the money or other matter mentioned in ſuch writ, and ſuch court is hereby authoriſed and required to give judgment accordingly for the ſame, with coſts, and to award execution againſt the goods and chattels, lands and tenements, of ſuch ſheriff, provided ſuch ſheriff have ten days previous notice of ſuch motion; and where it ſhall ſo happen that the time of any perſon's ſheriffalty ſhall be expired, or he ſhall be removed from his office before ſuch motion made by the creditor or creditors, the ſame remedy, proceedings, and relief, ſhall and may be had againſt him, as if ſuch perſon was actually in office; any thing herein contained to the contrary notwithſtanding.

11. *And be it further enacted by the authority aforesaid,* That where any ſheriff ſhall take the body of any debtor in execution, and ſhall wilfully or negligently ſuffer ſuch debtor to eſcape, and ſuch ſheriff, or perſon ſuing out ſuch execution, ſhall die before a recovery can be had againſt ſuch ſheriff for ſuch eſcape, the perſon ſuing out ſuch execution, his executors or adminiſtrators, ſhall and may have and maintain an action of debt againſt ſuch ſheriff, his executors or adminiſtrators, for the recovery of all ſuch ſums of money as are mentioned in the ſaid execution and damages for detaining the ſame; any law, uſage or cuſtom to the contrary notwithſtanding.

12. And for removing all controverſies touching the manner of turning over priſoners upon the ſheriff's quitting his office; *Be it further enacted by the authority aforesaid,* That the delivery of priſoners by indenture between the old ſheriff and the new, or the entering upon record in court, the names of the ſeveral

priſoners, and the cauſes of their commitment, delivered over to the new ſheriff, ſhall be ſufficient to diſcharge the late ſheriff from all ſuits and actions for any eſcape that ſhall happen.

13. *And be it enacted by the authority aforeſaid,* That the juſtices of the reſpective counties in this ſtate, ſhall nominate and appoint regiſters in the ſame manner as is herein directed for the choice of ſheriff, but each regiſter, before entering upon the execution of his office, ſhall take the oath appointed for the qualification of public officers, and an oath of office ; and ſhall give bond, in the penalty of five thouſand pounds, payable to the governor for the time being, and his ſucceſſors, for the true and faithful diſcharge of his office ; which bond, upon a breach thereof, ſhall be aſſigned to the party or parties injured and may be put in ſuit from time to time until the whole penalty ſhall be recovered,

CHAP. XXIII.

An act to encourage the building of public mills, and directing the duty of millers.

1. *Be it enacted by the general aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That every water griſt mill already built or which ſhall hereafter be built, that hath or ſhall at any time grind for toll ſhall be held and deemed and is hereby declared to be a public mill.

2. *And be it further enacted by the authority aforeſaid,* That any perſon willing to build ſuch mill who hath land only on one ſide of a run, ſhall exhibit his petition to the county court, and therein ſhew who is the proprietor on the oppoſite ſide of the run, whereupon a ſummons ſhall iſſue to ſuch proprietor to appear at the next court, and anſwer the allegations of ſuch petition ; and the court alſo ſhall at the ſame time order four honeſt freeholders to lay off, view and value, on oath, an acre of the land of ſuch proprietor, and alſo an acre of the land of of the petitioner oppoſite thereto, and to report their opinion and proceedings thereon to the next court, and thereupon the court ſhall order the ſaid report to be recorded ; and if it take not away houſes, orchards, gardens, and other immediate conveniences, ſhall and may and are hereby authoriſed to grant leave to the petitioner or ſuch proprietor to erect ſuch mill at the place propoſed, as in their diſcretion ſhall ſeem reaſonable, and to order the coſts of ſuch petition to be paid by the perſon to whom ſuch leave ſhall be granted.

3. *Provided always,* That the perſon to whom ſuch leave is granted ſhall pay down in court, for the acre of land he ſhall obtain thereby, the valuation money, and procure a record to be made thereof, which ſhall be a good and effectual ſeizen in law to create to ſuch perſon, his heirs and aſſigns, a fee ſimple in ſuch acre of land.

4. *And provided alſo,* That where any Griſt Mill has been heretofore erected by order of court, it ſhall not be lawful for

any court, on the petition of any perſon whatever, to grant any part of the tract whereon ſuch mill ſtands, for the purpoſe of building another mill within two miles above or below the mill already erected.

5. *Provided nevertheleſs*, That it ſhall not be lawful for any court to grant leave to any perſon to erect a mill ſo as to overflow any other mill, or create a nuiſance to the neighborhood; any thing herein contained to the contrary notwithſtanding.

6. *Provided alſo*, That the perſon ſo being ſeized, ſhall within one year begin to build a water mill, and finiſh the ſame within three years, and ſhall thereafter keep up the ſame for the uſe and eaſe of all ſuch as ſhall be cuſtomers to it, otherwiſe the ſaid land ſhall return to the perſon from whom it was taken, or to ſuch other perſon as ſhall have his right, unleſs the time for finiſhing the ſame for reaſon ſhewn to and approved of by the court, be enlarged.

7. *Provided likewiſe*, That if any water mill belonging to any perſon within the age of twenty one years, feme covert, non compos mentis, or impriſoned, be let fall, burnt or otherwiſe deſtroyed, that then ſuch perſon or perſons, and their heir or heirs, ſhall have three years to rebuild and repair ſuch mill, after his or their full age, diſcoverture, coming of ſound mind or enlargement out of priſon.

8. *And be it further enacted by the authority aforeſaid*, That if any perſon ſhall think himſelf aggrieved by the order or determination of the county court, he may appeal therefrom to the next ſuperior court for the diſtrict in which the ſaid land doth lie, giving bond and ſecurity as uſual; which court ſhall and is hereby authoriſed and empowered to take cognizance of the ſame, and to confirm ſuch order, or reverſe the ſame and to give ſuch judgment therein as the county court ought to have rendered.

9. *And be it further enacted by the authority aforeſaid*, That every perſon who hath built any mill in conſequence of any order of court, and hath actually paid the money according to the valuation of any acre of land as by this act directed to be laid off and valued, ſhall be, and is hereby declared to ſtand ſeized thereof to him his heirs and aſſigns, in abſolute property, in the ſame manner, and under the ſame reſtriction, limitation and conditions, as if the ſame had been originally granted by virute of the powers and authorities of this act.

10. *And be it further enacted by the authority aforeſaid*, That all millers ſhall grind according to turn, and ſhall well and ſufficiently grind the grain brought to their mills if water will permit, and ſhall take no more toll for grinding than one ſixth part of the Indian corn, and one eighth part of the wheat, in the diſtricts of Edenton, Newbern, Wilmington and Halifax, and the eighth of the corn and wheat in the diſtricts of Hillſborought and Saliſbury, and one fourteenth part for chopping grain of any grind; and every miller, or keeper of a mill, making default herein, viz. not grinding according to turn, nor well and ſufficiently grinding the grain, if water will per-

mit as aforeſaid, or exacting or taking more toll than herein is ſet down and allowed, ſhall for every ſuch offence forfeit and pay twenty-four ſhillings proclamation money to the party injured, to be recovered before any juſtice of the county wherein ſuch offence is committed, with coſt. *Provided nevertheless,* That it ſhall be in the power of any ſuch owner to grind, or cauſe to be ground, his own grain at any time he thinks fit, any thing in this act to the contrary notwithſtanding.

11. *And be it further enacted by the authority aforesaid,* That all millers ſhall keep in their mills the following meaſures, viz. a half buſhel and peck at full meaſure, and alſo proper toll diſhes for each meaſure; and every owner, by himſelf ſervant or ſlave, keeping any mill, and ſhall be lawfully convicted of keeping falſe toll diſhes, contrary to the intent and meaning of this act, ſhall forfeit and pay to the injured party five pounds, to be recovered before any juſtice of the county as aforeſaid; and in caſe ſuch miller is a free perſon, and keeps ſuch mill for a ſhare or for hire, and is guilty of any of the above offences, it ſhall be lawful for the owner to ſtop ſo much of his ſhare or hire, as will be ſufficient to reimburſe himſelf for ſuch fine or fines as he ſhall become anſwerable for, with all the charges that ſhall become due thereon.

CHAP. XXV.

An act to prevent burning the Woods.

WHEREAS the frequent buring of the woods is found to be deſtructive to cattle and hogs, extremely prejudicial to the ſoil, and oftentimes of fatal conſequences to planters and farmers, by deſtroying their fences and other improvements: For prevention of which evils,

2. *Be it enacted by the General Assembly of the state of North Carolina, and it is hereby enacted by the authority of the same,* That it ſhall not be lawful for any perſon whatſoever to ſet fire to any woods except it be his own property, and in that caſe it ſhall not be lawful for him to ſet fire to his own woods without firſt giving notice to all perſons owning lands adjacent to ſuch wood lands intended to be fired, at leaſt two days before the time of ſetting ſuch woods on fire, and alſo taking effectual care to extinguiſh ſuch fire before it ſhall reach any vacant or patented lands, contiguous to or adjacant ſuch lands ſo fired.

4. *And be it further enacted by the authority aforesaid,* That if any ſlave, free negro or mulatto, or vagrant perſon, unable to pay the fine aforeſaid, ſhall be convicted of ſetting fire to any woods, contrary to the true meaning of this act, ſuch perſon, on conviction thereof, ſhall have and receive on his bare back thirty-nine laſhes, well laid on, at the public whipping-poſt,

CHAP. XXXVI.

An act for levying a tax for defraying the contingencies of the ſeveral counties in this ſtate, and other purpoſes.

3. *And be it further enacted by the authority aforeſaid,* That the juſtices of the ſeveral county courts in this ſtate, ſhall appoint one good and proper perſon to act as Truſtee for the purpoſes herein mentioned, which appointments ſhall be entered on the records of the ſaid court; and the perſon ſo appointed, after giving bond and ſufficient ſecurity for the faithful diſcharge of his duty, agreeable to the directions of this act, and the orders of the court, is hereby directed, and ſhall have full power and authority to ſue for, recover and receive, from the late ſheriff of the county, and from all other perſons, all monies which may be in their hands due and payable to, and for the uſe of ſuch county, and ſhall alſo receive from the collectors all ſuch ſums of money as they ſhall be liable for in virtue of this act; which monies the truſtees reſpectively ſhall apply as the county court may direct, and to no other uſe or purpoſe whatſoever.

4. *And be it further enacted by the authority aforeſaid,* That the county courts in this ſtate are hereby reſpectively inveſted with full power to direct the application of all monies ariſing by virtue of this act to and for the purpoſes herein mentioned, and to any other good and neceſſary purpoſes for the uſe of the county, and may allow the county truſtee a reaſonable ſalary out of the ſame for his ſervices.

5. *And be it also enacted by the authority aforeſaid,* That in caſe any juſtice of the peace, or truſtee of any county in this ſtate, ſhall neglect or refuſe to do and perform the ſeveral and reſpective duties by this act required, or any of them, the perſon ſo offending, refuſing or neglecting, ſhall forfeit and pay for every neglect or refuſal the ſum of five pounds good and lawful money of this ſtate; to be recovered by action of debt, in the name of the governor or commander in chief for the time being, to and for the uſe of the county where the offence was committed.

At a General Aſſembly, begun and held at *Newbern*, on the fourteenth day of April, in the year of our lord one thouſand ſeven hundred and ſeventy-eight; and in the ſecond year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of this Aſſembly.

CHAP. V.

An act to enforce ſuch parts of the ſtatutes and common laws as have been heretofore in force and uſe here, and the acts of Aſſembly made and paſſed when this territory was under the government of the late proprietors and the crown of Great-Britain; and for reviving the ſeveral acts therein mentioned.

WHEREAS doubts may ariſe, upon the revolution in government whether any and what laws continue in force here; For prevention of which,

2. *Be it enacted by the General Aſſembly of the state of* North-Carolina, *and it is hereby enacted by the authority of the same*, That all ſuch ſtatutes, and ſuch parts of the common law, as were heretofore in force and uſe within this Territory, and all the acts of the late General Aſſemblies thereof, or ſo much of the ſaid ſtatutes, common law, and acts of Aſſembly, as are not deſtructive of, repugnant to, or inconſiſtent with the freedom and independence of this ſtate, and the form of government therein eſtabliſhed, and which have not been otherwiſe provided for, in the whole or in part, nor abrogated, repealed, expired or become obſolete, are hereby declared to be in full force within this ſtate.

CHAP. VII.

An act to eſtabliſh rules to be obſerved in ſolemnizing the rites of Matrimony.

WHEREAS it is abſolutely neceſſary that rules ſhould be obſerved concerning celebrating the rites of matrimony;

2. *Be it therefore enacted by the General Aſſembly of the state of North Carolina, and it is hereby enacted by the authority of the same*, That all regular miniſters of the goſpel of every denomination, having the cure of ſouls, and all juſtices of the peace in this ſtate, are hereby authoriſed and empowered to ſolemnize the rites of matrimony, according to the rites and ceremonies of their reſpective churches, and agreeable to the rules in this act preſcribed; and the ſaid miniſters may demand and

1778 take for every couple by them married, if by licence, the ſum of twenty ſhillings lawful money of this ſtate, and if by publication, the ſum of ten ſhillings like money, to their uſe, and no more.

3. *And be it further enacted by the authority aforeſaid,* That the clerk of each county court is hereby authoriſed and empowered to grant marriage licences to any perſon applying for the ſame, firſt taking bond, in the name of the governor for the time being, and his ſucceſſors, with ſufficient ſecurity, in the ſum of five hundred pounds lawful money of this ſtate, with condition that there is no lawful cauſe to obſtruct the marriage for which ſuch licence is deſired, to be recovered by action of debt, in any court of record having cognizance thereof, by the party grieved; which bond aforeſaid ſhall be taken, and licence granted, by the clerk of the county in which the feme reſides, which licence ſhall be directed to any authoriſed miniſter or juſtice of the peace.

4. *And be it further enacted by the authority aforeſaid,* That every miniſter of the goſpel, qualified as in this act before directed, or any other perſon appointed by their reſpective church as a reader, is hereby authoriſed and empowered to publiſh the banns of matrimony between any two perſons requeſting the ſame, provided that every publication ſhall be made three ſeveral Sundays in the congregation immediately after or during divine worſhip, and ſhall give a certificate of ſuch publication when demanded, directed to any authoriſed miniſter or juſtice of the peace, and may demand and take for his ſervice, the ſum of four ſhillings lawful money of this ſtate, and no more. Provided, that the people called Quakers ſhall ſtill retain their former rules and privileges in ſolemnizing the rites of matrimony in their own church, any thing in this act contained to the contrary notwithſtanding.

5. *And be it further enacted by the authority aforeſaid,* That if any miniſter or juſtice of the peace ſhall knowingly join together in matrimony any two perſons, in any way or manner other than by this act directed, ſhall forfeit and pay for every ſuch offence the ſum of fifty pounds lawful money of this ſtate; to be recovered by action of debt, in any court of record having cognizance thereof, one half to him that ſhall ſue for the ſame, and the other half to be applied by the court to the uſe of the county where ſuch forfeiture ariſeth, and be alſo liable to an action of damages to the party grieved: And if any clerk ſhall knowingly grant marriage licence, in any way or manner other than by this act directed, he ſhall forfeit and pay for every ſuch offenee the ſum of one hundred pounds lawful money of this ſtate; to be recovered and applied as other fines in this act before directed, and be alſo liable to an action of damage to the party grieved.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Newbern, the fourteenth day of April, in the year of our lord one thouſand ſeven hundred and ſeventy-eight, and from thence continued by adjournments and prorogations to the nineteenth day of January, at Halifax, in the year of our lord one thouſand ſeven hundred and ſeventy-nine: Being the third ſeſſion of this Aſſembly.

CHAP. IV.

An act to regulate and aſcertain the fees of Clerks in the Superior and county courts, Juſtices of the peace and Attornies, in this ſtate, and directing the method of paying the ſame, and other purpoſes.

5. *And be it further enacted by the authority aforeſaid*, That whenever it ſhall be the opinion of the court, that the party praying a continuance ſhall not obtain it without payment of all coſts attending the ſame, the whole of theſe coſts ſhall be paid before the continuance is granted; and the party paying ſuch coſts ſhall not be entitled to recover them, although the judgment of the court ſhall finally be in his favour.

7. *And be it enacted by the authority aforeſaid*, That if any clerk ſhall during the ſitting of the court whereof he is clerk, demand other or greater fees than by this act allowed, the court ſhall immediately on complaint being made thereof, determine what fee or fees ſhall be paid to the ſaid clerk by the party complaining.

CHAP. XI.

An act to prevent the ſtealing of ſlaves, or by violence, ſeduction or any other means, taking or conveying away any ſlave or ſlaves the property of another, and for other purpoſes therein mentioned.

WHEREAS it is neceſſary that the pernicious practice of ſtealing, or otherwiſe carrying away ſlaves, the property of others, as alſo of ſtealing and carrying off free negroes and mulattoes, with an intention to ſell and appropriate the ſame, ſhould be diſcouraged by a law with additional penalties:

2. *Be it therefore enacted by the General Aſſembly of the State of* North-Carolina, *and it is hereby enacted by the authority of the ſame*, That any perſon or perſons who ſhall hereafter ſteal, or

ſhall by violence, ſeduction or any other means, take or convey away any ſlave or ſlaves the property of another, with an intention to ſell or diſpoſe of to another, or appropriate to their own uſe, ſuch ſlave or ſlaves, or who ſhall hereafter by violence or any other means, take or convey any free negro or free negroes, or perſons of mixed blood, out of this ſtate to another, with an intention to ſell or diſpoſe of ſuch free negro or free negroes, or perſons of mixed blood, and being thereof legally convicted, or ſhall upon his arraignment peremptorily challenge more than thirty-five jurors, or ſhall ſtand mute, ſhall be judged guilty of felony, and ſhall ſuffer death without benefit of clergy.

5. *And be it further enacted by the authority aforeſaid,* That the clerk of every county court of this ſtate ſhall, on the third day of every court, read this act in the preſence and hearing of the county court, under penalty of five pounds for every default.

6. *And be it further enacted by the authority aforeſaid,* That this law ſhall take effect and be binding upon the ſubjects of this ſtate, on the firſt day of April next, and afterwards, and not ſooner.

7. *And be it further enacted by the authority aforeſaid,* That ſo much of an act of Aſſembly of this ſtate, entitled, an act concerning ſervants and ſlaves, as comes within the purview of this act, is hereby repealed, and declared to be void and of no effect, to all intents and purpoſes whatſoever.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Smithfield, on the third day of May, in the year of our lord one thouſand ſeven hundred and ſeventy-nine, and in the third year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of this Aſſembly.

CHAP. V.

An act for amending an act for making proviſion for the poor, and for other purpoſes.

6. And whereas by an act, entitled an act concerning ſervants and ſlaves, it is enacted, that no ſlave ſhall be permitted on any pretence whatſoever, to raiſe any horſes, cattle, hogs or ſheep; *Be it therefore enacted by the authority aforeſaid,* That all horſes, cattle, hogs or ſheep, that, one month after the paſſing this act, ſhall belong to any ſlave, or be of any ſlave's mark, in this ſtate, ſhall be ſeized and ſold by the county wardens, and by them applied, the one half to the ſupport of the poor of the county, and the other half to the informer.

LAWS OF NORTH CAROLINA.

At a General Aſſembly, begun and held at Halifax, on the eighteenth day of October, in the year of our lord one thouſand ſeven hundred and ſeventy-nine, and in the fourth year of the Independence of the ſaid ſtate: Being the ſecond ſeſſion of this aſſembly.

C H A P. III.

An act to prevent hunting in the night time with gun and fire-light, and other purpoſes therein mentioned.

9. *And be it further enacted by the authority aforeſaid,* That if any perſon ſummoned as an evidence againſt any fire hunter, and refuſe or neglect to give evidence againſt ſuch fire hunter, ſuch perſon ſo refuſing or neglecting ſhall be committed to the gaol of the county where the offence ſhall be committed, until he or ſhe ſhall give evidence againſt the offender.

C H A P. V.

An act to amend an act for appointing ſheriffs, and directing their duty in office, and for obliging the late ſheriffs and collectors of public monies who are in arrear to account for and pay the ſame, and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That every county court ſhall elect and nominate a freeholder of ſufficient circumſtances to execute the office of ſheriff, who ſhall thereupon be commiſſioned by the governor, and if any ſheriff ſo nominated ſhall remove out of his bailiwick, or fail to give ſecurity, or refuſe to qualify, or ſhall happen to die in the time of his ſheriffalty, the court ſhall at the next ſeſſions elect and nominate another as aforeſaid.

2. *And be it further enacted by the authority aforeſaid,* That in caſe at any time there ſhall be no perſon properly qualified to act as ſheriff in any county of this ſtate, that then it ſhall and may be lawful for the coroner of ſuch county, and he is hereby required, to execute all proceſs, civil or criminal, lawfully iſſuing, or judgments, orders or ſentences, of any courts within the ſame, until ſome perſon ſhall be appointed properly qualified as aforeſaid to act as ſheriff in ſaid county; and ſuch coroner ſhall be under the ſame rules and regulations, and ſubject to the ſame fines and forfeitures, as ſheriffs are by law for neglect or diſobedience of the duties aforeſaid.

3. *And be it further enacted by the authority aforeſaid,* That

1779 when it ſhall ſo happen that there is not a ſheriff or coroner in any of the counties of this ſtate wherein the ſuperior courts of law are held, that then in ſuch caſe all orders or ſentences of ſaid courts ſhall be performed and executed by the ſheriff of any county of the diſtrict to whom the judges or clerks of the ſaid courts after term time may think proper to direct the ſame, with the ſame powers and authorities as if he had been the ſheriff of the county wherein ſaid ſuperior court is held, under the penalty and fine of five thouſand pounds, to be inflicted upon him by the ſuperior court of the diſtrict, on indictment, for ſuch contempt and diſobedience, and to be further liable to impriſonment, at the diſcretion of ſaid court; any law, uſage or cuſtom, to the contrary notwithſtanding.

CHAP. VI.

An act for directing the method of appointing Jurors in all cauſes civil and criminal.

WHEREAS a trial by jury is one of the beſt ſecurities of the rights of the people, and a juſt deciſion of ſuits and controverſies in the ſeveral courts of law within this ſtate, depend on the integrity and capacity of jurors:

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and by the authority of the ſame,* That the juſtices of the county courts within the diſtrict of each ſuperior court of law within this ſtate ſhall, and they are hereby directed, before the ſitting of any ſuperior court, to nominate forty-eight freeholders to ſerve as jurors at ſuch ſuperior courts. *Provided always,* That no county court ſhall knowingly nominate any perſon to ſerve as a juror at two courts ſucceſſively, or any perſon who ſhall have an action or ſuit at iſſue in the ſuperior court at the term to which he ſhall be ſo nominated.

3. *And be it further enacted by the authority aforeſaid,* That a liſt of jurors ſo nominated, ſhall be delivered by the clerk of each county court to the ſheriff, who ſhall and is hereby required to ſummon the perſons ſo nominated to ſerve as jurors at the ſuperior court, and if any juror ſo ſummoned ſhall fail to appear, he ſhall be fined, which fine ſhall be applied to the payment of ſuch jurors as ſhall attend from the ſaid county, and thereby leſſen the county tax.

4. *Provided always,* That if any of the ſaid county courts ſhall fail or neglect to nominate freeholders to ſerve as jurors as aforeſaid, or the perſons ſo nominated ſhall fail to attend, it ſhall and may be lawful for ſuch ſuperior court to order and direct the ſheriff to ſummon other freeholders of the byſtanders to ſerve as jurors, and the perſons ſo ſummoned ſhall be held and deemed lawful jurors. *Provided,* That ſuch byſtanders who ſhall be ſo ſummoned, ſhall and may be every day diſcharged; and the ſucceeding day, and ſo from day to day during the continuance of the court, the ſheriff ſhall ſummon of the byſtanders ſo many as ſhall be neceſſary.

5. And that the fines may be applied according to the directions of this act, *Be it further enacted by the authority aforeſaid,* That the fines herein impoſed ſhall be levied by the ſheriff of each reſpective county wherein each perſon ſhall reſide, who ſhall be ſummoned as jurors as herein directed, and ſhall fail to appear and ſerve as ſuch; and ſuch ſheriff ſhall be accountable for the ſame to the county court of his county.

6. *And be it further enacted by the authority aforeſaid,* That the ſheriff of each reſpective county ſhall, and he is hereby required to ſummon the freeholders in the liſt to be delivered him by the clerk of the county court of his county, at leaſt ten days before the ſitting of the ſuperior court of which ſuch freeholders are to attend as jurors, which he may do perſonally, or by leaving a note or ſummons in writing at the dwelling houſe of ſuch freeholder ſo to be nominated as aforeſaid.

9. *And be it enacted by the authority aforeſaid,* That the juſtices of the county courts ſhall, at the ſeſſions of their reſpective courts, nominate thirty freeholders to ſerve as grand and petit jurors at the next enſuing court of the county, and a liſt thereof ſhall by the clerk be delivered to the ſheriff of ſuch county, who is hereby required to ſummon the perſons therein named to attend as jurors at ſuch courts reſpectively, at leaſt five days before the ſitting of ſuch court, which ſaid jury ſhall appear and give their attendance accordingly till diſcharged by the court; and that there may not be a default of jurors, it ſhall and may be lawful, during the ſitting of the county court, for the ſheriff, by order of ſuch court, to ſummon of the byſtanders other jurors, being freeholders, to ſerve on the petit jury from day to day, and on any day of the ſaid court the juſtices may diſcharge thoſe who have ſerved the preceding day.

10. And to enforce the attendance of jurors at the ſaid county courts, *Be it enacted by the authority aforeſaid,* That every perſon who ſhall hereafter be ſummoned in virtue of this act to appear as jurors at any county court, ſuch perſon failing to appear, or to give attendance till diſcharged by order of the court, ſhall be fined, to be applied towards defraying the charges of the county, and leſſening the county tax, unleſs he ſhall ſhew ſufficient cauſe to the next ſucceeding court for ſuch failure.

11. *And be it further enacted by the authority aforeſaid,* That no ſheriff, or other officer, ſhall ſerve or execute any writ, or other proceſs, on the body of any juror, during his attendance on, going to, and returning from any of the ſaid ſuperior or county courts; any ſuch ſervice ſhall be void, and the defendant may on motion be diſcharged.

12. *And be it further enacted by the authority aforeſaid,* That the judges of the ſuperior courts ſhall direct the names of all the jurors returned from the counties of the diſtrict where ſuch court ſhall be held to be wrote on ſcrolls of paper, which ſcrolls of paper ſhall be put into a box, and drawn out by a child under ten years of age, and the firſt eighteen drawn ſhall be a grand jury for the ſaid court, and the reſidue of the names in the box ſhall be the names of thoſe who ſhall ſerve as petit jurors for the ſaid court.

1779 13. *And be it further enacted by the authority aforeſaid,* That when either of the parties ſhall require that a jury ſhould be ballotted for, that then, and in that caſe, the clerk ſhall write the names of all the petit jurors appearing on ſcrolls or pieces of paper, and on the iſſue in ſuch ſuit, a child under ten years of age, in open court, ſhall draw out of the ſaid box twelve of the ſaid ſcrolls or pieces of paper; and the perſons whoſe names ſhall be in the ſaid ſcrolls or pieces of paper drawn as aforeſaid, ſhall be jurors to try ſuch iſſue, provided that they all do appear; and in caſe of defaulters, other ſcrolls ſhall be drawn, until a ſufficient number ſhall appear to make a complete jury.

14. *And be it further enacted by the authority aforeſaid,* That when the governor or commander in chief, with advice of the council, ſhall think it neceſſary to iſſue a commiſſion to the judges of the ſuperior courts of law of this ſtate, empowering them, or any of them, to hold a court of ſeſſions of the peace, oyer and terminer, and general gaol delivery, that the judge or judges empowered to hold ſuch courts, ſhall iſſue a venire facias to the ſheriff of the county wherein ſuch court is to be held, who is hereby required to ſummon forty-eight jurors, being freeholders, five days previous to the ſitting of ſaid court, to give their attendance at the ſame, under the ſame rules, regulations and penalties, as other jurors are liable to in this act directed; and in caſe of a venire facias not arriving in time to the ſheriff to ſummon as aforeſaid, or in default of the attendance of ſuch jurors ſo ſummoned, that then the ſheriff ſhall ſummon of the byſtanders ſuch other perſons, being freeholders, to conſtitute the grand and petit jurors of the courts as aforeſaid, who if they ſhall fail or refuſe to attend, ſhall be ſubject to the ſame penalties as before mentioned.

CHAP. VII.

An act to amend an act, entitled, an additional act concerning Servants and Slaves, paſſed at Newbern, in the year one thouſand ſeven hundred and fifty-three, and for other purpoſes therein mentioned.

WHEREAS by the before recited act, the encouragement given to ſearchers or patrollers, the penalty inflicted on them in caſe of a non-compliance of their duty, and the times appointed for ſearching, are inſufficient:

2. *Be it therefore enacted by the general aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That each and every ſearcher or patroller appointed in purſuance of the aforeſaid act ſhall, as to his own perſon, during the time of his continuance in office, be exempted from ſerving as a conſtable, or working upon the roads, attending private muſters, or as a juror, and ſhall be entitled to ſuch further allowance out of the county tax as the court ſhall think neceſſary.

3. *And be it further enacted by the authority aforeſaid,* That

the ſearchers in their reſpective diſtricts ſhall ſearch once in every month for guns and other weapons, as the before recited act directs, and ſhall make return on oath of all ſuch guns or weapons, which they ſhall ſo find, to the ſuuceeding county court, to be applied to the uſe of the county, or returned to the owner, as the court may direct: and in caſe they find any ſlave or ſlaves on the ſabbath, or other unſeaſonable time, off his maſter or miſtreſs's plantation, without a paſs or in company with ſome white perſon who will vouch for his or their honeſt intention, it ſhall be lawful for them to apprehend ſuch ſlave or ſlaves, and convey, or cauſed to be conveyed, to the maſter, miſtreſs or overſeer, who ſhall pay to the ſaid ſearchers or patrollers in like manner as apprehending and conveying runaways, as a compenſation for their trouble.

4. *And be it enacted, by the authority aforeſaid,* That every ſearcher or patroller who ſhall refuſe to ſerve, or neglect to do his duty, ſhall forfeit and pay the ſum of one hundred pounds; to be recovered in any juriſdiction having cognizance thereof.

5. *And be it further enacted by the authority aforeſaid,* That ſo much of the before recited act, entitled, an additional act to an act concerning ſervants and ſlaves, paſſed at Newbern the twenty-ſeventh day of March, one thouſand ſeven hundred and fifty-three, as comes within the purview of this act, be, and is hereby repealed and made void.

CHAP. X.

An act for regulating ordinaries, houſes of Entertainment, and Ferries, and other purpoſes.

WHEREAS the laws at preſent in force have been found ineffectual for the due regulation of ordinaries and ferries.

2. *Be it enacted by the General Aſſembly of North Carolina,* That all perſons hereafter retailing liquors ſhall ſell the ſame by ſealed meaſures, or ſuch other meaſures as ſhall at leaſt contain the full quantity pretended to be ſold.

3. *And be it further enacted,* That no perſon, not having a licence for keeping an ordinary, ſhall ſell or retail liquors in ſmaller quantities than is by this act permitted, under the penalty of fifty pounds for every offence, one half to the uſe of the ſtate, the other half to the uſe of the informer.

4. *And be it further enacted by the authority aforeſaid,* That any perſon, by applying to the court of the county in which ſuch perſon dwells, and praying a licence to keep an ordinary, may at the directions of ſuch court be ordered to have a licence for the purpoſe aforeſaid, unleſs it ſhall appear to the ſaid court that the perſon ſo applying is a perſon of groſs immorality, or of ſuch poor circumſtance, and ſlender credit, that they think him or her not able to comply with the intention of this act; and on granting ſuch licence, the perſon who applies for the

ſame ſhall produce one or more ſecurities to the ſaid court, to be by them approved, who ſhall before the licence be made out, join with him or her in a bond of the following tenor, to wit :

KNOW all men, by theſe preſents, that we A. B. and C. D. are held and firmly bound unto Governor of the ſtate of North-Carolina, in the ſum of one thouſand pounds current money of the ſaid ſtate, to be paid to the ſaid or his ſucceſſors. To the which payment well and truly to be made, we bind ourſelves, and every of us, our and every of our heirs, executors and adminiſtrators, jointly and ſeverally, firmly by theſe preſents. Sealed with our ſeals, and dated the day of

THE condition of the above obligation is ſuch, that whereas the above bound A. B. hath obtained a licence to keep an ordinary at if therefore the ſaid A. B. doth conſtantly find and provide in his or her ſaid ordinary, good, clean, and wholeſome diet and lodging for travellers, and ſtable, fodder, corn and paſturage, for their horſes, for and during the term of one year from the day of then this obligation to be void, otherwiſe to remain in force.

And in caſe of a breach of, or not complying with the condition of ſaid bond, it ſhall and may be lawful for any perſon, in the name of the governor, to ſue for and recover the penalty of ſaid bond, and apply one half thereof to his or her own uſe, and the other half to the uſe of the county where the cauſe of action may ariſe.

5. *And be it further enacted by the authority aforeſaid*, That when ſuch bond ſhall have been given, the clerk of the court ſhall prepare a licence, and ſign the ſame, which licence ſhall continue in force one year, and no longer.

6. *And be it further enacted by the authority aforeſaid*, That if any ordinary-keeper ſhall entertain ſervants or ſlaves againſt the will of their owner, or common ſailors againſt the directions of the maſters of veſſels to which they belong, every ordinary-keeper ſo offending ſhall and may, by order of two juſtices, before whom ſuch offence ſhall be proved, be from thenceforth ſuſpended and diſabled from keeping an ordinary, as if he or ſhe had never obtained a licence for that purpoſe. *Provided nevertheleſs*, That ſuch ordinary-keeper may be heard by the next court, who if they think proper may reſtore ſuch ordinary-keeper, by granting him a new licence.

7. *And be it further enacted by the authority aforeſaid*, That any perſon which (after being ſuſpended and diſabled from keeping ordinary, according to the directions of this act) ſhall ſell or retail liquors until he or ſhe ſhall obtain another licence for ſuch purpoſe, ſhall be liable to the ſame penalties as if a licence had never been obtained by him or her.

8. *And be it further enacted by the authority aforeſaid*, That the juſtices of each county ſhall once a year, or oftener if neceſſary, after the firſt court to be held after the firſt day of January next, rate the prices of liquors, diet, lodging, fodder,

corn, provinder and paſturage, to be taken by ordinary-keepers; alſo the ſaid juſtices ſhall, at the ſame time, rate the prices of ſuch ferries, as ſhall be kept within their reſpective counties: And every ordinary-keeper ſhall, within thirty days after the rates ſhall be ſet by the county court where his or her licence ſhall be granted, obtain of the clerk a fair copy of ſuch rates, which copy ſhall be openly ſet up in the common entertaining room of ſuch ordinary, and there kept till the rates are again altered; and every ordinary-keeper failing herein, ſhall forfeit and pay one hundred pounds for every failure.

9. *And be it further enacted by the authority aforeſaid,* That every ordinary-keeper who ſhall aſk, demand or receive, a greater price for any drink, diet, lodging, fodder, provinder, corn or paſturage: or any ferry-keeper who ſhall aſk, demand or receive, a greater price for ferriage than ſhall be rated by the juſtices according to the directions of this act, ſhall forfeit fifty pounds for every offence; to be recovered by the informer to his own uſe, before any juriſdiction having cognizance thereof.

10. *And be it further enacted by the authority aforeſaid,* That no ordinary-keeper ſhall ſell on credit liquors to any common ſailor to more than the amount of ten pounds, without leave of the maſter of the veſſel to which he belongs, under the penalty of loſing the money which otherwiſe he or ſhe might have recovered for ſuch liquor ſo ſold to ſuch ſailor on credit; nor ſell drink by ſmall meaſure upon credit to any other perſon to a greater amount than twenty pounds, unleſs the perſon ſo credited ſhall ſign a book, in the preſence of one or more ſufficient witneſs or witneſſes, in acknowledgment of the ſaid debt, under the penalty of loſing the money ſo credited; and in any action brought for recovery of ſuch debt, the general iſſue may be pleaded, and this act given in evidence.

11. *And be it further enacted by the authority aforeſaid,* That all penalties, fines and forfeitures in this act, the method of recovering or applying whereof are not herein particularly directed, ſhall be one half to the county wardens for the uſe of the county where ſuch fine is incurred, the other half to him or them that ſhall ſue for the ſame; to be recovered with coſts, by action of debt, bill, plaint or information, in any court of record having cognizance of the ſame.

12. *Provided always,* That nothing in this act contained ſhall be conſtrued, deemed or taken, to prohibit or reſtrain any perſon to ſell by retail wine, rum, brandy, or other ſpirits, by the quart or a greater quantity, or ale, beer, or cider, in any quantity not leſs than a gallon, provided that the ſame be not intended to be drank on the plantation whereon the ſame are ſold.

13. *And be it further enacted by the authority aforeſaid,* That if any perſon or perſons, from and after the paſſing of this act, ſhall ſell and deliver any kind of grain, ſalt or other articles, in a leſs meaſure than the ſtandard eſtabliſhed by law, ſhall forfeit and pay for each offence the ſum of five hundred pounds; to be recovered in any court of record having cog-

nizance thereof, to be applied to the uſe of the perſon ſuing for the ſame.

14. And whereas ſome perſons who live at, or own public ferries in this ſtate, have denied to keep up the ſame for the rates allowed them by their reſpective county courts: For remedy whereof, *Be it further enacted by the authority aforeſaid*, That if any perſon or perſons who live at, or own public ferries in this ſtate, ſhall refuſe to keep up ſuch ferry or ferries at the rates allowed them by their ſaid county courts, every ſuch perſon ſo offending ſhall for every offence forfeit and pay the ſum of fifty pounds; to be recovered by any perſon ſuing for the ſame, to his or her own uſe.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Halifax, on the eighteenth day of January, in the year of our lord one thouſand ſeven hundred and eighty-one, and in the fifth year of the Independence of the ſaid ſtate: Being the third ſeſſion of this Aſſembly.

CHAP. IV.

An act for directing and regulating Elections in particular inſtances.

10. And whereas from divers cauſes it may happen that there may not be either ſheriff or coroner in ſome counties in this ſtate to take and make return of elections for members of the general aſſembly; *Be it therefore enacted by the authority aforeſaid*, That where there ſhall not be either ſheriff or coroner to take the poll at the annual or any other election, it ſhall be lawful for three juſtices of the peace to appoint ſome reputable freeholder to hold the election, with the ſame powers, directions and reſtrictions, as ſheriffs by law are inveſted with and ſubject to, and ſuch elections ſo made ſhall be as valid as if taken and held by the ſheriff or coroner.

At a General Aſſembly, begun and held at Hillſborough, on the thirteenth day of April, in the year of our lord one thouſand ſeven hundred and eighty two, and in the ſixth year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of this aſſembly.

CHAP. XI.

An act for giving an Equity Juriſdiction to the Superior Courts.

WHEREAS the courts of law as at preſent eſtabliſhed, are not equal to the redreſs of all kind of injuries, but many innocent men are with-held of their juſt rights, and ſome deprived of them altogether, for want of a court or courts of equity:

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That from and after the expiration of the preſent ſeſſion of the general aſſembly, each ſuperior court of law in this ſtate ſhall alſo be and act as a court of equity for the ſame diſtrict, and poſſeſs all the powers and authorities within the ſame, that the court of chancery which was formerly held in this ſtate under the late government uſed and exerciſed, and that are properly and rightfully incident to ſuch a court, agreeable to the laws in force in this ſtate, and not inconſiſtent with our preſent conſtitution.

CHAP. XXIX.

An act to amend an act, entitled, an act to prevent burning the woods.

WHEREAS the penalties in the ſaid act are not ſufficient to anſwer the good purpoſes therein mentioned;

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That every perſon offending againſt the ſaid act, ſhall forfeit and pay for every offence the ſum of twenty-five pounds ſpecie, to be recovered by action of debt, bill, plaint or information, to the uſe of the perſon who ſhall ſue or proſecute for the ſame, and ſhall alſo be further liable to the party injured by ſuch unlawful firing of the woods for all damages that may accrue therefrom.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Hillſborough, on the eighteenth day of April, in the year of our lord one thouſand ſeven hundred and eighty three, and in the ſeventh year of the Independence of the United States of America; Being the firſt ſeſſion of this aſſembly.

CHAP. IV.

An act for the eſtabliſhing a ſcale of depreciation, with a proviſion for ſuits commenced for paper currency, and for ſuſpending the operation of the laws therein mentioned.

2. *Be it therefore enacted by the General Assembly of the state of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the paſſing of this act, the following ſcale ſhall be, and is hereby declared to be the only ſcale to determine the value of the depreciation of the paper currency of this ſtate, in all caſes whatſoever, eſtimating the ſame in ſpecie; deeming one Spaniſh milled dollar, weighing ſeventeen penny-weight ſix grains, to be of the value of eight ſhillings ſpecie; which ſcale ſhall be as follows, that is to ſay:

Years and Months.	1777	1778	1779	1780	1781	1782
JANUARY,	0	3 1-2	6	32	210	800
FEBRUARY,	0	3 1-2	6 1-2	35	225	800
MARCH,	1 1-4	3 3-4	7 1-2	40	250	800
APRIL,	1 1-2	4	10	50	260	800
MAY,	1 3 4	4	10	60	300	800
JUNE,	2	4	12 1 2	75	350	800
JULY,	2 1-8	4 1-4	15	90	400	800
AUGUST,	2 1-4	4 1-2	18	100	500	800
SEPTEMBER,	2 1-4	4 1-2	21	125	550	800
OCTOBER,	2 1-2	4 3-4	25	150	600	800
NOVEMBER,	2 1-2	5	27	175	675	800
DECEMBER,	3	5 1-2	30	200	725	800

4. *Provided always*, and it is the true intent and meaning of this act, that on trials of actions for debt, where the debt is in the preſent time, and the payment in the future time, the contracts, and all matters, circumſtances and things relating thereto, ſhall be given in evidence to the jury, whoſe verdict ſhall regulate the ſame, ſo that judgment may be entered up thereon.

5. And whereas many ſuits are hanging up in the ſuperior and inferior courts, from the damage in writs being laid in the ſaid paper currency, whereon if the plaintiff had proceeded to judgment, ſuch judgment would in no manner have been in-

trinſic and adequate to the debt or damage ſuſtained or demanded; *Be it enacted by the authority aforeſaid,* That the judges and juſtices of the ſaid courts are hereby authoriſed and empowered to direct the jurors in all ſuch caſes, to find their verdict in ſpecie, although the writ ſhall be laid in the ſaid paper currency, and to enter up judgment in ſpecie; which variation between the writ and judgment ſhall not be aſſigned an error thereon, in impediment of juſtice and the operation of this law.

6. *And be it further enacted by the authority aforeſaid,* That all juſtices of the peace, on trial of warrants brought before them, or any of them, ſhall give judgment and award execution according to the foregoing ſcale of depreciation, and agreeable to the true intent and meaning of this act.

7. *And be it further enacted by the authority aforeſaid,* That on all pleas of tender, with an always ready, alledged to be made after the laſt day of March, one thouſand ſeven hundred and ſeventy-ſeven, the party pleading ſuch plea ſhall file an affidavit therewith, that the ſum ſo tendered was equal at the time of ſuch tender to the debt or damage demanded, according to the then depreciation; and for the want of ſuch affidavit the plaintiff ſhall be admitted to proceed on his writ in the uſual courſe of practice, unleſs the defendant waves his ſaid plea, and pleads to iſſue.

8. *Provided nevertheleſs,* That no creditor who hath before the ſaid laſt day of March, in the year ſeventeen hundred and ſeventy-ſeven, refuſed to receive, or artfully evaded receiving his debt in currency, ſhall be entitled to have depreciation made good to him.

9. And whereas great injuſtice and injury may ariſe to many perſons who may have claims to property, or demands on debtors, by reaſon of the courts of juſtice being often ſtopped, the depreciation of the paper currency, and the intruſion of a deſtructive war, creditors have been prevented from proſecuting for the ſame to any effect; that juſtice and equity may therein be done, *Be it enacted by the authority aforeſaid,* That the ſtatute of limitations, entitled, an act concerning old titles to lands, and for limitations of actions, and for avoiding ſuits in law, be and is hereby ſuſpended from its uſual operation, ſo far forth as it acts, or might act, as an eſtople or impediment againſt the recovery of lands, tenements and hereditaments, or any of them, or the recovery of property by actions of detinue, trover and converſion, or demands againſt debtors, or ſuits in equity coming within the proviſions and remedies of this act, from the fourth day of July, ſeventeen hundred and ſeventy-ſix, to the firſt day of June, ſeventeen hundred and eighty-four, that all perſons may implead or be impleaded in that time, unleſs the ſaid law had had the full operation thereof before the ſaid fourth day of July, in the year aforeſaid.

10. *And be it further enacted by the authority aforeſaid,* That until the ſaid firſt day of June, ſeventeen hundred and eighty-four, any plaintiff ſhall and may recover under the act commonly called the book-debt act, a verdict and judgment for ſuch articles as he or ſhe ſhall prove by his or her own oath, although

the cauſe of action may not have ariſen within two years before the time when the ſuit was, or ſhall be commenced, any thing in the ſame act to the contrary notwithſtanding.

11. *And be it further enacted by the authority aforeſaid*, That all and every act of this ſtate making the paper currency thereof, heretofore emitted, or the continental paper currency, a tender in the payment of debts, ſo far forth as they relate to the payment of debts, are hereby repealed and made void.

12. And whereas many great and difficult diſputes may happen in matters of adminiſtration, teſtamentary, and truſts between executors, adminiſtrators and guardians, and their wards and minors, in the ſettlement of accounts and truſts, ariſing from the ſaid depreciation, and incidents growing out of the times, which are only determinable in a court of equity; and that law ſuits and expenſive litigation thereon may be obviated; *Be it enacted by the authority aforeſaid*, That in all ſuch caſes as above deſcribed, the parties are hereby empowered to form a full & perfect ſtate of the caſe on both ſides, at their joint expence, which caſe ſhall be ſubmitted to the determination of the judges of the court of equity, who are hereby authoriſed to take ſuch caſe under their conſideration, and to determine the ſame according to equity and good conſcience.

13. *Provided always*, and it is the intent hereof, That no part of this law ſhall be conſtrued to eſtop, or hinder any perſon or perſons from proceeding in the uſual courſe of law, if he, ſhe or they ſhall deem the ſame neceſſary. *And provided alſo*, That in all caſes where a debt is due, upon bond, note or otherwiſe, with a penal ſum, and a part thereof paid in paper currency, then and in that caſe, this act ſhall not enable or ſuffer the creditor to take any ſum out of the penalty, or be conſtrued to affect the reſidue of ſaid debt; any thing to the contrary notwithſtanding.

CHAP. XI.

An act to enforce the attendance of Jurors in this ſtate, to provide for their ſubſiſtence in attending, alſo to aſcertain the pay of Witneſſes attending courts, and other purpoſes.

WHEREAS the above purpoſes have not hitherto been ſufficiently provided for:

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That every juror who ſhall be hereafter appointed by any of the county courts within this ſtate to attend at any of the ſuperior courts, and ſhall fail to appear according to the ſummons, and give his attendance, ſhall forfeit and pay ten pounds ſpecie; and every perſon appointed by, and duly ſummoned to attend any county court, who ſhall fail or neglect to attend ſuch court as juror, ſhall forfeit and pay the ſum of [five dollars,] which forfeitures ſhall be aſſeſſed by the court to which ſuch perſon ſhall be returned a juror, and recovered and applied as fines are directed in an act of Aſſembly, entitled, an act

to provide indifferent jurymen, &c. and appropriated to the ſame purpoſes as in the ſaid act is directed, Provided, That each delinquent juryman ſhall have till the next ſucceeding term to make his excuſe to the judges or juſtices of the ſaid court, as the caſe may be, for his non-attendance.

3. *And be it further enacted by the authority aforeſaid*, That every juryman who ſhall attend agreeable to ſuch ſummons at any of the ſuperior courts, ſhall be allowed for every day's attendance the ſum of eight ſhillings ſpecie, and the like ſum for every thirty miles he ſhall travel in going to and returning from the ſaid court, and ſuch ſums as ſhall be neceſſarily expended by him in croſſing ferries; and every juror ſhall receive at the end of the term from the clerk of the court, a certificate for the ſum he may be entitled to receive, in which ticket the number of days ſuch juror hath attended ſhall be expreſſed, and alſo the number of miles he may have travelled, together with the charges of ferriage, where any may have been expended by him, which ticket ſhall be paid out of the county tax of the county wherein ſuch juror reſides.

5. *And be it further enacted by the authority aforeſaid*, That when any perſon ſhall be ſummoned by the lawful officer to attend any of the aforeſaid courts as a taliſman, and who ſhall fail to appear and give his attendance during the day for which he is ſummoned, ſhall be amerced at the diſcretion of the court, not exceeding twenty ſhillings ſpecie, and the court ſhall order the clerk forthwith to iſſue an execution againſt the body or goods of the delinquent for ſuch amerciament and coſts.

CHAP. XIV.

An act to amend an act paſſed in the year of our lord one thouſand ſeven hundred and forty-one, entitled, an act concerning ſervants and ſlaves.

WHEREAS the mode directed in the ſaid act for the trial of ſlaves where the offence may be of a ſmall and trivial nature, is found to be attended with delay, great loſs of time, and expence to the owner: For remedy whereof,

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That where any ſlave or ſlaves ſhall hereafter commit any miſdemeanor or offence which is not by law declared capital, and which in the opinion of the juſtice or juſtices before whom ſuch offending ſlave may be carried for examination, ſhall appear to be of ſo trivial a nature as not to deſerve a greater puniſhment than a ſingle juſtice of the peace is by this act empowered to inflict, ſuch juſtice ſhall, and he is hereby authoriſed and empowered forthwith to iſſue ſupœnas if neceſſary, to compel the attendance of witneſſes, and proceed immediately upon the trial of ſuch ſlave in a ſummary way, and to paſs ſentence and award execution; provided the puniſhment extends no further than by ordering the offender to be publicly whipped not exceeding forty laſhes: And where the

offence for which any ſlave ſhall be apprehended, ſhall appear to the juſtice or juſtices to be of ſuch a nature as to deſerve any other or greater puniſhment, ſuch offending ſlave ſhall be committed to gaol, and ſtand his or her trial by a court in the way preſcribed by the aforerecited act.

3. *Provided*, That upon all trials of ſlaves before any juſtice of the peace, for any miſdemeanor under this act, any other of the juſtices of the county where ſuch ſlave may be upon trial, may if they think proper, ſit upon and aſſiſt in the examination and trial.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Hillſborough, on the nineteenth day of April, in the year of our lord one thouſand ſeven hundred and eighty four, and in the eighth year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of this Aſſembly.

CHAP. I.

An act to amend an act, entitled, an act for aſcertaining what property in this ſtate ſhall be deemed taxable property, the method of aſſeſſing the ſame, and collecting public taxes.

18. *And be it further enacted by the authority aforesaid*, That no perſon being a juſtice of the peace ſhall be a collector of public taxes.

CHAP. XXII.

An act to regulate the deſcent of real eſtates; to do away entails, to make proviſion for widows, and to prevent frauds in the execution of laſt wills and teſtaments.

WHEREAS it will tend to promote that equality of property which is of the ſpirit and principle of a genuine republic, that the real eſtates of perſons dying inteſtate ſhould undergo a more general and equal diſtribution than has hitherto prevailed in this ſtate:

2. *Be it therefore enacted by the General Assembly of the state of North Carolina, and it is hereby enacted by the authority of the same*, That when any perſon ſhall die ſeized or poſſeſſed of, or having any right, title or intereſt in and to any eſtate or inheritance of land, or other real eſtate in fee-ſimple, and ſuch perſon ſhall die inteſtate, his or her eſtate or inheritance ſhall deſcend in the following manner, to wit: To all the ſons to be equally, divided amongſt them, and for want of ſons, to all the daughters to be devided amongſt them equally,

ſhare and ſhare alike, as tenants in common in ſeveralty, and not as joint tenants, other than ſuch ſon or daughter as ſhall have lands ſettled on him or her by his or her deceaſed parent in fee-ſimple, equal to the ſhare which ſhall deſcend to the other ſons or daughters, as the caſe may be, reſpectively; and in caſe any ſon or daughter ſhall have lands ſettled on him or her by his or her deceaſed parent, not equal to the ſhare which ſhall deſcend to ſuch ſons or daughters, as the caſe may be, reſpectively as aforeſaid, then ſo much of the lands or other real eſtate of the deceaſed ſhall deſcend to ſuch ſon or daughter, ſo provided for, as will make the eſtates of all the children entitled by this act to the inheritance, as nearly equal as can be eſtimated; and each and every of the children of the deceaſed ſo inheriting, ſhall have, hold and enjoy, in the land ſo deſcending, ſuch eſtate as the ſaid deceaſed had and held in the ſame at the time of his deceaſe: *Provided always*, That if any child of ſuch inteſtate ſhall have died in the lifetime of the parent, his or her lineal deſcendants ſhall be held to repreſent their parent, and ſhall ſtand in the ſame place he or ſhe would have done, and ſhall be entitled to the ſame portion of the eſtate of their grand-father or grand-mother, as their father or mother would have been entitled to if living; ſuch part or portion to be divided amongſt the ſons and daughters, as tenants in common in ſeveralty, and not as joint tenants.

3. And whereas it is almoſt peculiar to the law of Great Britain, and founded in principles of the feudal ſyſtem, which no longer apply in that government, and can never apply in this ſtate, that the half-blood ſhould be excluded from the inheritance, *Be it therefore enacted by the authority aforeſaid*, That if any perſon, dying inteſtate, ſhould at the time of his or her death, he ſeized or poſſeſſed of, or have any right, title or intereſt in or to any eſtate or inheritance in lands or other real eſtate, in fee ſimple, and without iſſue, ſuch eſtate or inheritance ſhall deſcend to his or her brothers and ſiſters, as well thoſe of half blood as thoſe of whole blood, to be divided amongſt them equally, ſhare and ſhare alike as tenants in common, and not as jointtenants; and each and every of them ſhall have, hold and enjoy in their reſpective parts or portions, ſuch eſtate or inheritance as the inteſtate died ſeized or poſſeſſed of, or entitled unto: Provided always, that when the eſtate ſhall have deſcended on the part of the father, and the iſſue to whom ſuch inheritance ſhall have deſcended ſhall die without iſſue, male or female, but having brothers or ſiſters of the paternal ſide of the half blood, and brothers or ſiſters of the maternal line alſo of the half blood, ſuch brothers and ſiſters reſpectively of the paternal line ſhall inherit in the ſame manner as brothers and ſiſters of the whole blood, until ſuch paternal line is exhauſted of the half blood, and the ſame rule of deſcent and inheritance ſhall prevail amongſt the half blood of the maternal line under ſimilar circumſtances, to the excluſion of the paternal line: Provided alſo, that if any brother or ſiſter of the inteſtate ſhall have died in the life time of the inteſtate, leaving iſſue, male or female, ſuch iſſue, ſhall repreſent their deceaſed parent, and ſtand in the ſame place he or ſhe would have done

1784 if living, and ſhall be entitled to the ſame part or portion of the eſtate of his or their uncle or aunt as his or their father or mother would have been entitled to if living, ſuch part or portion to be devided amongſt ſuch repreſentatives, if more than one, equally ſhare and ſhare alike as tenants in common, and not as jointtenants.

4. *And be it further enacted by the authority aforeſaid,* That the ſame rules of deſcent ſhall be obſerved in lineal deſcendants and collaterals reſpectively, when the lineal deſcendants ſhall be further removed from their anceſtor than grand-children, and when the collaterals ſhall be further removed than the children of brothers and ſiſters.

5. And whereas entails of eſtates tend only to raiſe the wealth and importance of particular families and individuals, giving them an unequal and undue influence in a republic, and prove in manifold inſtances the ſource of great contention and injuſtice, *Be it therefore enacted by the authority aforeſaid,* That from and after the ratification of this act, any perſon ſeized or poſſeſſed of an eſtate in general of ſpecial tail, whether by purchaſe or deſcent, ſhall be held and deemed to be ſeized and poſſeſſed of the ſame in fee-ſimple, fully and abſolutely, without any condition or limitation whatſoever to him, his heirs and aſſigns forever, and ſhall have full power and authority to ſell or deviſe the ſame as he ſhall think proper, and ſuch eſtate ſhall deſcend under the ſame rules as other eſtates in fee-ſimple; and all ſales and conveyances made bona fide, and for valuable conſideration, ſince the firſt day of January, in the year of our lord one thouſand ſeven hundred and ſeventy-ſeven, by any tenant in tail, in actual poſſeſſion of any real eſtate where ſuch eſtate hath been conveyed in fee-ſimple, ſhall be good and effectual in law to bar any tenant or tenants in tail, and tenants in remainder of and from all claim and claims, action and actions, and right of entry whatſoever, of, in and to ſuch entailed eſtate, againſt any purchaſer, his heirs or aſſigns, now in actual poſſeſſion of ſuch eſtate, in the ſame manner as if ſuch tenant in tail had poſſeſſed the ſame in fee-ſimple.

6. And whereas in real and perſonal eſtates held in joint tenancy the benefit of ſurvivorſhip is a manifeſt injuſtice to the families of ſuch as may happen to die firſt, *Be it therefore enacted by the authority aforeſaid,* That in all eſtates real and perſonal, held in joint tenancy, the part or ſhare of any tenant dying ſhall not for the future deſcend or go to the ſurviving tenant or tenants, but ſhall deſcend or be veſted in the heirs, executors, adminiſtrators or aſſigns reſpectively of the tenant ſo dying, in the ſame manner as eſtates held by tenancy in common, any law, uſage or cuſtom to the contrary notwithſtanding: *Provided always,* That eſtates held in joint tenancy for the purpoſes of carrying on and promoting trade and commerce, or any other uſeful work or manufacture eſtabliſhed and perſued with a view of profit to the parties therein concerned, ſhall be veſted in the ſurviving partner or partners, in order to enable him or them to ſettle and adjuſt the partnerſhip-buſineſs and pay off the debts which may have been contracted in purſuit of

the ſaid joint buſineſs ; but as ſoon as the ſame ſhall be effected, the ſurvivor or ſurvivors ſhall account with and pay and deliver to the heirs, executors, adminiſtrators and aſſigns reſpectively of the deceaſed partner or partners, all ſuch part, ſhare and ſums of money, as he or they may be entitled to by virtue of the original agreement if any, or according to his or their ſhare or part in the joint concern, in the ſame manner as partnerſhip ſtock is uſually ſettled between joint merchants and the repreſentatives of their deceaſed partners.

7. And whereas by the law of deſcents as it now ſtands, when any perſon ſeized of a real eſtate in fee-ſimple, dies inteſtate without iſſue, and not having any brother or ſiſter, ſuch eſtate deſcends to ſome collateral relation, notwithſtanding that the inteſtate may have parents living, a doctrine grounded upon a maxim of law not founded in reaſon, and often iniquitous in its conſequences, *Be it therefore enacted by the authority aforeſaid*, That in caſe of any perſon dying inteſtate, poſſeſſed of an eſtate of inheritance, without leaving any iſſue, or not having any brother or ſiſter, or the lawful iſſue of ſuch, who ſhall ſurvive the eſtate of ſuch inteſtate, ſhall be veſted in fee-ſimple, in his or her parent, from whom the ſame was derived.

8. And whereas the dower allotted by law in lands for widows in the preſent unimproved ſtate of this country, is a very inadequate proviſion for the ſupport of ſuch widows, and it is highly juſt and reaſonable that thoſe who by their prudence, œconomy and induſtry, have contributed to raiſe up an eſtate to their huſbands, ſhould be entitled to ſhare in it, *Be it therefore enacted by the authority aforeſaid*, That if any perſon ſhall die inteſtate, or ſhall make his laſt will and teſtament, and not therein make any expreſs proviſion for his wife, by giving and deviſing unto her ſuch part or parcel of his real or perſonal eſtate, or to ſome other for her uſe, as ſhall be fully ſatisfactory to her, ſuch widow may ſignify her diſſent thereto before the judges of the ſuperior court, or in the court of the county wherein ſhe reſides, in open court, within ſix months after the probate of the ſaid will, and then and in that caſe ſhe ſhall be entitled to dower in the following manner, to wit: One third part of all the lands and tenements, and hereditaments, of which her huſband died ſeized or poſſeſſed. *Provided always*, That any conveyances made fraudulently to children or otherwiſe, with an intention to defeat the widow of the dower hereby allotted, ſhall be held and deemed to be void, and ſuch widow ſhall be entitled to dower in ſuch land ſo fraudulently conveyed as if no conveyance had been made, which ſaid third part ſhall be and enure to her own proper uſe, benefit and behoof, for and during the term of her natural life ; in which ſaid third part ſhall be comprehended the dwelling-houſe in which the ſaid huſband ſhall have been accuſtomed moſt generally to dwell next before his death, and commonly called the manſion-houſe, together with the office, out-houſes, buildings and other improvements thereunto belonging or appertaining. *Provided always*, That in caſe it ſhould appear to the ſaid judges or juſtices that the whole of the ſaid dwelling-houſe, out-houſes, offices and appurtenances, cannot be applied to the uſe

of the wife, without manifeſt injuſtice to the children or other relations, then and in that caſe ſuch widow ſhall be entitled to ſuch part or portions of ſaid dwelling-houſe, out-houſes, offices and improvements thereunto belonging, as they ſhall conceive will be ſufficient to afford her a decent reſidence, due regard being had to her rank, condition and paſt manner of life; which dwelling-houſe, out-houſes, offices and improvements, or ſuch part thereof ſo allotted the ſaid widow, ſhall be and enure to her during the term of her natural life; and furthermore, if ſuch huſband ſhall die leaving no child, or not more than two, then and in that caſe ſhe ſhall be entitled to one third part of the perſonal eſtate; but if ſuch huſband ſhall die leaving more than two children, then and in that caſe ſuch widow ſhall ſhare equally with all the children, ſhe being entitled to a child's part.

9. And whereas the preſent mode of ſuing for dower is dilatory, expenſive and intricate, *Be it enacted by the authority aforeſaid,* That after the ratification of this act, it ſhall and may be lawful for any widow having claim to dower, to file her petition in the ſuperior court of the diſtrict, or the court of the county where her huſband ſhall have uſually dwelt, ſetting forth the nature of her claim, and particularly ſpecifying the lands, tenements and hereditaments of which her huſband died ſeized or poſſeſſed, and praying that her dower may be allotted to her; whereupon the ſaid court ſhall iſſue their writ to the ſheriff of the county where the lands, tenements and hereditaments of the deceaſed huſband lie, commanding him to ſummon twelve freeholders connected with the parties neither by conſanguinity or affinity, and entirely diſintereſted, who upon oath (which oath the ſheriff is hereby empowered to adminiſter) ſhall allot and ſet off to the ſaid widow, one third part of all the lands, tenements and hereditaments in the ſaid county, of which the ſaid huſband was ſo as aforeſaid ſeized or poſſeſſed, and ſhall put her in poſſeſſion of the ſame, which poſſeſſion ſhall veſt in her an eſtate for her natural life, in the third part of the lands, tenements and hereditaments of which her huſband was ſo as aforeſaid ſeized or poſſeſſed; and the ſaid ſheriff and freeholders ſhall alſo put her in poſſeſſion of the houſe or manſion, or part or portion thereof, in which her ſaid huſband moſt generally dwelt next before his deceaſe, and of all offices, out-houſes, buildings and improvements thereunto belonging, or in any wiſe appertaining; and in caſe of the lands, tenements and hereditaments that were of the eſtate of the deceaſed lying in different counties, the court ſhall iſſue their writs to the ſheriffs of the ſeveral counties reſpectively, commanding them as aforeſaid, which writs ſhall be executed in manner as aforeſaid directed, when the lands, tenements and hereditaments lie in the ſame county; and ſuch ſheriff and jury ſhall alſo allot and ſet off to ſuch widow, ſuch part or portion of the perſonal eſtate of which her huſband died poſſeſſed, and to which by this law ſhe ſhall be entitled, which part or portion ſhall be and enure to ſuch widow, her executors, adminiſtrators and aſſigns forever.

10. *And be it further enacted by the authority aforeſaid,* That

the proceedings upon ſuch petitions for dower ſhall be in a ſummary manner, and the judges or juſtices ſhall at the firſt court when ſuch petitions are filed, proceed to hear and determine as to them ſhall ſeem juſt and right: *Provided always*, That the party petitioning for dower, ſhall give ten days previous notice to the heirs and executors, or executors and adminiſtrators of the laſt will and teſtament of her deceaſed huſband, and ſhall ſerve him, her or them with a copy of the ſaid petition.

11. And whereas wills and teſtaments which ought to be the moſt ſolemn and beſt conſidered act of a man's life, are in too many inſtances the moſt indiſcreet, and from weakneſs of body and mind, and the undue influence of thoſe about them, and from an omiſſion of due ceremonies, the true intentions of the teſtator are fruſtrated, and injuſtice done to thoſe for whom he meant ſpecially to provide; *Be it enacted by the authority aforeſaid*, That no laſt will or teſtament ſhall be good or ſufficient either in law or equity to convey or give any eſtate in lands, tenements or hereditaments, unleſs ſuch laſt will ſhall have been written in the teſtator's lifetime, and ſigned by him, or ſome other perſon in his preſence, and by his direction, and ſubſcribed in his preſence by two witneſſes at leaſt, no one of which ſhall be intereſted in the deviſe of the ſaid lands.

12. And whereas for want of knowledge in the law many real eſtates are deviſed in ſuch a manner as to fruſtrate the intentions of the teſtators, and it not unfrequently happens from the difficulty of diſcovering ſuch intentions, that the poſterity of ſuch teſtators are diſinherited, and the families of ſuch perſons whoſe fortunes are intented to be promoted are left without ſupport; for remedy whereof, *Be it therefore enacted by the authority aforeſaid*, That from and after the ratification of this act, where any lands, tenements, hereditaments, or other real eſtate ſhall be deviſed to any perſon or perſons, the ſame ſhall be held, deemed and conſtrued to be a deviſe in fee-ſimple, unleſs ſuch deviſe ſhall in plain or expreſs words, or it ſhall be plainly intended by ſuch will or ſome part thereof, that the teſtator intended to convey an eſtate of leſs dignity, any law, uſage or cuſtom to the contrary notwithſtanding.

14. *And be it further enacted by the authority aforeſaid*, That no written will ſhall be revoked or altered by a ſubſequent nuncupative will, except the ſame be in the lifetime of the teſtator reduced to writing and read over to him and approved; and unleſs the ſame be proved to have been ſo done by the oath of two witneſſes at leaſt, who ſhall be ſuch as are admiſſible upon trials at common law.

15. *And be it further enacted by the authority aforeſaid*, That no nuncupative will in any wiſe ſhall be good where the eſtate exceeds one hundred pounds current money of the ſtate, unleſs proved by two ſuch witneſſes as laſt mentioned preſent at the making thereof, and unleſs they or ſome of them were ſpecially required to bear witneſs thereto by the teſtator himſelf, and unleſs it was made in his laſt ſickneſs in his own habitation or dwelling-houſe, or where he had been previouſly reſident ten days at leaſt, except he be ſurpriſed with ſickneſs on a

journey or from home, and dies without returning to his dwelling.

16. *And be it further enacted by the authority aforeſaid,* That no nuncupative will ſhall be proved by the witneſſes after ſix months from the making, unleſs it were put in writing within ten days, nor ſhall it be proved till fourteen days after the death of the teſtator, nor till proceſs hath firſt iſſued to call in the widow or next of kin, or both if conveniently to be found, to conteſt it if they think proper.

17. *And be it further enacted by the authority aforeſaid,* That every law heretofore in force in this ſtate, and every clauſe or part thereof, which come within the purview of this act, are hereby repealed and made void.

CHAP. XXIII.

A ſupplemental act to an act, entitled, an act for proving of Wills and granting adminiſtration, and to prevent frauds in the management of inteſtates eſtates.

WHEREAS it is enacted in the ninth ſection of the ſaid act, " that creditors of any perſon deceaſed ſhall make their claims in ſeven years after the death of ſuch debtor, otherwiſe the creditor ſhall be forever barred; and if it ſhall happen that any ſum or ſums of money ſhall hereafter remain in the hands of any adminiſtrator after the term of ſeven years ſhall be expired, and not recovered by any kin to the deceaſed, or by any creditor in that time, the ſame ſhall be paid to the churchwardens and veſtry to and for the uſe of the pariſh where the ſaid money ſhall remain." And as there are no churchwardens or veſtry to make claim in ſuch caſes.

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That as ſoon as an adminiſtrator ſhall have finiſhed his adminiſtration on ſuch eſtates, and no creditor ſhall make any further demand, the reſidue of ſuch eſtate ſhall be depoſited in the treaſury, and there to remain without intereſt, ſubject to the claim of creditors and the lawful repreſentatives of ſuch decedent without being ſubject to limitation or time.

3. *And be it further enacted by the authority aforeſaid,* That the treaſurer is hereby authoriſed and empowered in all ſuch caſes to demand payment of ſuch adminiſtrator, and on refuſal or delay, to give notice of thirty days to appear and ſhew cauſe why he refuſes or delays payment, and on non-appearance to enter up judgment, and thereon proceed to execution for the purpoſes aforeſaid.

CHAP. XXIX.

An act to preſcribe the affirmation of Allegiance and Fidelity to this ſtate to be taken by the people called Quakers, and for granting them certain indulgences therein mentioned.

2. *And be it further enacted by the authority aforeſaid*, That from and after the paſſing of this act, it ſhall be lawful for the people called Quakers to wear their hats as well within the ſeveral courts of judicature in this ſtate as elſewhere, unleſs otherwiſe ordered by the court.

3. *And be it further enacted by the authority aforeſaid*, That ſo much of an act of the general aſſembly paſſed in the year of our lord one thouſand ſeven hundred and ſixty-two, entitled, an act for the better care of orphans, and ſecurity and management of their eſtates, as comes within the purview of this act; and alſo ſo much of an act of the general aſſembly paſſed in the year of our lord one thouſand ſeven hundred and ſeventy-nine, entitled, an act to preſcribe the affirmation of allegiance and fidelity to this ſtate to be taken by the Unitas Fratrum, or moravians, quakers, menoniſts and dunkards, and granting them certain indulgences therein mentioned and other purpoſes, as relates to the people called quakers, ſhall be and is hereby repealed and made void and of no effect.

CHAP. XXXI.

An act for repealing an act of the General Aſſembly, entitled, an act to empower the juſtices of the county courts to appoint a county attorney and ſolicitor to proſecute for the ſtate in the county courts, and for the purpoſe of appointing a ſalary and fees for the attorney and ſolicitor and other purpoſes, and for allowing fees to attornies who may hereafter proſecute in the reſpective counties in the ſtate, and for regulating the proceedings on preſentments and indictments.

3. *And be it further enacted by the authority aforeſaid*, That in all criminal proſecutions hereafter to be had by indictment or preſentment in the county courts, it ſhall be ſufficient to all intents and purpoſes, that the bill ſhall contain the charge againſt the criminal expreſſed in a plain, ſimple, intelligible and explicit manner, and that no bill of indictment or preſentment ſhall be quaſhed, or judgment arreſted, for or by reaſon of any informalities or refinements, when there appears to the county court ſufficient in the face of the indictment to induce them to proceed to judgment.

CHAP. XXXII.

An act to aſcertain the meaſurement of fire-wood ſold in the ſeveral towns eſtabliſhed within this ſtate by the Legiſlature.

1. *Be it therefore enacted by the general aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That all fire-wood ſold in the towns eſtabliſhed within this ſtate by the legiſlative authority, ſhall be ſold by the cord and no otherwiſe: and that each cord ſhall contain eight feet in length, four feet in height, and four feet in breadth, and ſhall be corded by the carter or ſeller, under the penalty of twenty ſhillings for each offence, to be recovered againſt the owner or ſeller, before a ſingle magiſtrate by a warrant, which penalty ſhall be to the uſe of the informer.

CHAP. XXXIII.

An act to prevent the ſeveral ſpecies of hunting therein mentioned.

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That if any perſon or perſons ſhall be diſcovered hunting in the woods with a gun in the night-time by fire-light, ſuch perſon or perſons ſo offending ſhall upon conviction by indictment or preſentment in any court of record in the ſtate, be fined by ſuch court twenty pounds current money, to be applied to the uſe of the county wherein the offence was committed; and if any perſon ſo fined ſhall fail or refuſe to pay ſuch fine, the perſon ſo failing or refuſing ſhall receive thirty-nine laſhes on his bare back by order of ſuch court, to be well laid on in open view by the ſheriff of the county, and ſhall ſtand committed until all coſts accruing upon the preſentment be paid.

2. And whereas many perſons make a practice of hunting and killing deer and leaving the carcaſes in the woods, *Be it enacted,* That if any perſon ſhall be convicted as aforeſaid of killing any deer and leaving the carcaſes thereof in the woods, he ſhall for every offence forfeit and pay the ſum of twenty ſhillings.

3. *And be it further enacted by the authority aforeſaid,* That if any ſlave or ſlaves ſhall be diſcovered hunting in manner herein before mentioned, the maſter of ſuch ſlave or ſlaves, or the perſon in whoſe ſervice he or they may be, ſhall upon due conviction of ſuch ſlave or ſlaves before any juſtice of the peace of the county wherein ſuch offence may be committed, forfeit the ſum of five pounds, to be levied by a warrant immediately to be iſſued by ſuch juſtice for that purpoſe; and if any perſon ſhall be duly convicted as aforeſaid of ſending his ſlave to hunt with a gun in the night by fire-light, he ſhall be ſubject to the

ſame pains as are provided by this act to be inflicted on fire-hunters.

6. *And be it further enacted by the authority aforesaid,* That ſo much of the laws heretofore made, which relates to fire-hunting and deſtroying deer at unſeaſonable times of the year, as comes within the purview of this act, be and is hereby repealed and made void to all intents and purpoſes, and conſtrued as if the ſame had never been made.

7. *And be it further enacted by the authority aforeſaid,* That all fines impoſed and recovered by virtue of this act, ſhall be one half to the uſe of the informer, the other half to the uſe of the poor of the county wherein the offence ſhall be committed, except ſuch as are otherwiſe directed.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Newbern, on twenty ſecond of October, in the year of our lord one thouſand ſeven hundred and eighty-four, and in the ninth year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of this Aſſembly.

CHAP. X.

An Act to explain, amend and ſupply the deficiencies of an act paſſed laſt aſſembly at Hillſborough, entitled, an act to regulate the deſcent of real eſtates, to do away entails, to make proviſion for widows and to prevent frauds in the execution of laſt wills and teſtaments, and for directing how deeds of gifts and bills of ſales of ſlaves ſhall be executed, authenticated and perpetuated.

WHEREAS doubts have been ſuggeſted that the law referred to in the title of this act leaves it at leaſt uncertain whether brothers of the half blood ſhall be entitled to ſucceed to the inheritance in the ſame manner as ſiſters do where there is no brother, nor the iſſue of any ſuch: To remedy ſuch doubts,

2. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That in the third ſection of the ſaid act it was the intention of the legislature to let in the brothers of the half blood equally with the brothers of the whole blood.

3. And whereas by the ſeventh ſection of the ſaid act, real eſtates actually purchaſed or otherwiſe acquired by any inteſtate are to deſcend to the father if living, but if dead then to the

mother of ſuch inteſtate and her heirs, by which the deſcent may be altered by the accident of death, and the parental line which is favored in all other inſtances may be deprived of the inheritance by ſuch accident: for remedy whereof, *Be it enacted by the authority aforesaid,* That in caſe of the death of any perſon inteſtate leaving any real eſtate actually purchaſed or otherwiſe acquired, and not having any heirs of his body nor any brother or ſiſter or the lawful iſſue of ſuch, then ſuch eſtate ſhall be veſted in the father of ſuch inteſtate if living, but if dead then in the mother for life, and after the death of the mother, then in the heirs of ſuch inteſtate on the part of the father, and for want of heirs on the part of the father, then in the heirs of the inteſtate on the part of mother forever.

5. And whereas the atteſtation of witneſſes to wills and teſtaments required by the before mentioned act, is intended to prevent frauds and impoſitions by the will of perſons haſtily drawn up in their laſt ſickneſs, or from their want of ſufficient knowledge for that purpoſe, and it may be proper to make exceptions from that rule in particular caſes: *Be it therefore enacted by the authority aforesaid,* That when any laſt will ſhall be found amongſt the valuable papers or effects of any deceaſed perſon, or ſhall have been lodged in the hands of any perſon for ſafe keeping, and the ſame ſhall be in the hand-writing of ſuch deceaſed perſon and his name ſubſcribed thereto or inſerted in ſome part of ſuch will, and if ſuch hand-writing is generally known by the acquaintances of ſuch deceaſed perſon, and it ſhall be proved by at leaſt three credible witneſſes that they verily believe ſuch will and every part thereof is in the hand-writing of the perſon whoſe will it appears to be; then and in that caſe ſuch will ſhall be ſufficient in law to give and convey a ſufficient eſtate in lands, tenements and hereditaments, any thing in the before recited act to the contrary notwithſtanding.

6. *And be it enacted by the authority aforesaid,* That all probates of wills in the county courts, as well thoſe made heretofore as thoſe which may be made hereafter, ſhall be ſufficient teſtimony for the deviſe of real eſtates, and atteſted copies of ſuch wills, or the records thereof by the proper officer, ſhall and may be given in evidence in the ſame manner as the originals; any law or uſage to the contrary notwithſtanding; *Provided always,* That when any fraud may be ſuggeſted to have been committed in the drawing or obtaining any laſt will, or any irregularity in the execution or atteſtation thereof, the party making ſuch ſuggeſtion ſhall and may inſiſt upon the original will being produced to the court, if the ſame is to be found; and the court wherein any ſuit is depending and in which ſuch will may be introduced as teſtimony, may compel all and every perſon or perſons whether in office or otherwiſe to produce the ſame.

7. And whereas many perſons have been injured by ſecret deeds of gift to children and others, and for want of formal bills of ſale for ſlaves, and a law perpetuating ſuch gifts and ſales: For remedy whereof, *Be it enacted by the authority aforesaid,* That from and after the firſt day of June next, all

ſales of ſlaves ſhall be in writing, atteſted by at leaſt one creditable witneſs, or otherwiſe ſhall not be deemed valid; and all bills of ſale of negroes and deeds of gift of any eſtate of whatever nature, ſhall within nine months after the making thereof be proved in due form and recorded; and all bills of ſale and deeds of gift not authenticated and perpetuated in manner by this act directed, ſhall be void and of no force, whatſoever, any law to the contrary notwithſtanding.

C H A P. XI.

An act directing the mode of proceeding againſt the real eſtates of deceaſed debtors, where the perſonal eſtate is inſufficient for the payment of the debts.

WHEREAS doubts are entertained whether the real eſtates of deceaſed debtors in the hands of their heirs or deviſees, ſhould be ſubject to the payment of debts upon judgments obtained againſt the executors or adminiſtrators: In order therefore to remove ſuch doubts in future, and to direct the mode of proceeding in ſuch caſes,

2. *Be it therefore enacted by the General Aſſembly of the state of North Carolina, and it is hereby enacted by the authority of the ſame,* That in all ſuits at law where the executors or adminiſtrators of any deceaſed perſon ſhall plead fully adminiſtered, no aſſets, or not ſufficient aſſets to fatisfy the plaintiff's demand, and ſuch plea ſhall be found in favour of the defendant, the plaintiff may proceed to aſcertain his demand and to ſign judgment; but before taking out execution againſt the real eſtate of the deceaſed debtor, a writ or writs of ſcire facias ſhall and may iſſue, ſummoning the reſpective heirs and deviſees of ſuch deceaſed debtor to ſhew cauſe why execution ſhould not iſſue againſt the real eſtate for the amount of ſuch judgment, or ſo much thereof as there may not be perſonal aſſets to diſcharge; and if judgment ſhall paſs againſt the heirs or deviſees or any of them, execution ſhall and may iſſue againſt the real eſtate of the deceaſed debtor in the hands of ſuch heirs or deviſees againſt whom judgment ſhall be given as aforeſaid.

3. *Provided always, and be it enacted by the authority aforeſaid,* That when any ſuch heir or deviſee ſhall be a minor and have a guardian, the ſcire facias ſhall be ſerved on ſuch guardian, but where the minor ſhall have no guardian, then and in that caſe the court ſhall appoint a guardian to defend the ſuit for ſuch minor.

4. *And be it enacted by the authority aforeſaid,* That when the heirs and deviſees of any deceaſed debtor, or any of them, ſhall reſide out of the ſtate, ſo that writs of ſcire facias cannot be ſerved on them, and ſhall have no guardians on which the ſame can be executed, then and in that caſe the ſheriff ſhall return the fact to be ſo, and another ſcire facias ſhall iſſue, on which the ſame return ſhall be made if the parties ſtill continue to reſide without the limits of this ſtate; on which ſecond

return, and likewiſe on every ſecond return that the party or parties have been ſummoned and no appearance ſhall be made upon ſuch ſummons, judgment ſhall be given againſt the real eſtate in the hands of ſuch heirs or deviſees.

5. *And be it further enacted by the authority aforeſaid*, That when any executors or adminiſtrators ſhall plead fully adminiſtered, no aſſets, or not ſufficient to diſcharge the plaintiff's debt, notwithſtanding that ſuch plea ſhould be found in favour of the defendant or defendants on the trial of the iſſue, the heirs or deviſees ſhall be permitted to conteſt the truth thereof; & upon the plea of ſuch heirs or deviſees, that the executors or adminiſtrators have ſufficient aſſets, or have waſted or concealed the ſame, the court ſhall order the trial of a collateral iſſue between the executors or adminiſtrators and ſuch heirs or deviſees; which if found againſt the executors or adminiſtrators, the original plaintiff ſhall have execution not only againſt the goods and chattels of the deceaſed debtor, but againſt the proper goods, chattels, lands and tenements of ſuch executors or adminiſtrators; any law or cuſtom to the contrary notwithſtanding.

6. And whereas it may ſo happen that the real eſtate of a deceaſed perſon may by will be diſtributed among ſeveral deviſees and the part deviſed to one of ſuch deviſees may be ſeized in execution and ſold, while the other deviſees continue poſſeſſed of ſuch part of the eſtate as the teſtator intended for them; and it is juſt and reaſonable in ſuch caſes that all the deviſees ſhould bear an equal proportion of the loſs; *Be it therefore enacted by the authority aforeſaid*, That it ſhall and may be lawful for any deviſee ſo evicted by the ſale of the deviſee to him as aforeſaid, to bring his action at law againſt the other deviſee or deviſees for his or their proportion of the value of the land ſo ſold as aforeſaid, ſuggeſtiug in his declaration the value of all the ſeveral deviſees, and the recovery againſt the other deviſee or deviſees ſhall be in proportion to the value of all the deviſees, which ſhall be proved on the trial without having any regard to the ſum for which the eſtate of the evicted was ſold.

CHAP. XIII.

An act for appointing county commiſſioners for taking affidavits in cauſes of Law and Equity.

WHEREAS the diſtant abode of the judges of the ſuperior courts of law and equity in this ſtate, from a majority of the good people thereof, who have or may have cauſes in the ſaid courts depending, wherein by the preſent practice of the ſaid courts it is neceſſary that affidavits ſhould be made before ſome one of the judges before original or meſne proceſs can iſſue in ſaid caſes, which is inconvenient, expenſive and dilatory to ſuitors in ſaid courts: for remedy whereof,

2. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That from and after the paſſing this act, the ſaid judges may appoint, and they are hereby directed to appoint, one pru-

dent and diſcreet perſon in each county as a commiſſioner for taking affidavits relative to all cauſes about being inſtituted or depending in any of the courts of law and equity within this ſtate, on which affidavits being certified by ſuch commiſſioner to have been taken before him, the ſame proceſs, orders and rules may iſſue from the ſaid courts, or the judges thereof reſpectively, as if the matter in ſaid affidavits contained had been ſworn to before the ſaid judges in term time or in the vacation; any law, cuſtom or uſage to the contrary notwithſtanding.

3. *And be it also enacted by the authority aforesaid*, That for every affidavit so taken and certified, it ſhall and may be lawful for the said commiſſioners to receive the ſum of four ſhillings, and the perſons under this act appointed by the ſaid judges, are hereby declared to have the authority thereunto competent, and any perſon or perſons who ſhall before the commiſſioners by virtue of this act be guilty of ſwearing falſely, ſhall on conviction thereof ſuffer the pains and penalties by law inflicted on perſons convicted of perjury.

C H A P. XIV.

An act to empower the county courts of pleas and quarter ſeſſions of the ſeveral counties in this ſtate to order the laying out public roads and to eſtabliſh and ſettle ferries, and to appoint where bridges ſhall be built, and to clear inland rivers and creeks.

15. *And be it further enacted by the authority aforesaid*, That from and after the paſſing of this act the courts of each and every county in this ſtate ſhall have full power and authority, and they are hereby directed and required to compel all perſons that now do or ſhall hereafter be appointed to keep a public ferry, or who ſhall own a bridge receiving toll within the ſaid counties, to give good and ſufficient ſecurity in the ſum of five hundred pounds, payable to the chairman of the ſaid court and his ſucceſſors, with condition that he or they ſhall and will conſtantly find, provide and keep good and ſufficient boats and other proper crafts, and keep ſuch bridges in good repair as the caſe may be, and always to be well attended for travellers or other perſons, their horſes, carriages and effects over any river or creek; and if any perſon ſhall receive damage by any ferryman or keeper of a toll bridge, not having complied with the condition of his bond, the perſon receiving ſuch damage ſhall and may bring an action of debt againſt ſuch ferryman or bridge keeper on ſuch bond in the name of the chairman and recover for the non-performance of the ſaid condition ſo much damages as he, ſhe or they ſhall appear to have ſuſtained and thereupon take out execution for whatever ſhall be ſo recovered, and apply the ſame to his, her or their own uſe; and it ſhall and may be lawful for any perſon detained at any public ferry by reaſon of the ferryman's not having ſufficient boats or other proper crafts and hands, or by neglecting to do his duty, by a warrant from a juſtice of the peace to recover of

ſuch ferryman the ſum of five pounds for every ſuch default or neglect. Provided, That any ſuch recovery ſhall not be deemed to bar any action for perſonal damages ſuffered by any perſon or perſons by reaſon of the inſufficiency of ſaid ferries and boats thereon, and bridges and cauſeways.

16. And whereas the opening and cleanſing the inland rivers and water courſes within this ſtate may tend to the eaſe of the inhabitants in the carriage of the produce of the country to market and be of general utility, *Be it therefore enacted by the authority aforesaid*, That the majority of the juſtices of the county courts ſhall and they are hereby authoriſed and empowered where an inland river or ſtream ſhall run through the county of which they are juſtices, by order of court to appoint commiſſioners to view and inſpect such river, and make out a ſcale of the expence of labour with which the opening and clearing the ſame will be attended, and if the ſame ſhall be deemed within the compaſs of the abilities of the county, and ſhall judge the burthen will be compenſated by the utility, to appoint and authoriſe the commiſſioners to proceed in the moſt expeditious manner in the opening and cleanſing the ſame, by taking ſuch hands off the making or repairing the public roads as the court ſhall permit and direct to be appropriated to ſuch work, which hands ſhall be placed under overſeers in companies, every overſeer and company to have a diſtinct portion of ſuch rivers or ſtreams laid off by the court, which overſeers and men of companies are hereby ſubject to the ſame rules and double the penalties as by this act impoſed on the overſeers and working hands upon public roads. *Provided*, No overſeer or hands appointed to open and cleanſe navigable rivers and ſtreams ſhall be compelled to work on public roads.

17. *And be it further enacted by the authority aforesaid*, That all fines and forfeitures mentioned in this act, and herein not applied, ſhall be applied to the uſe of the county.

18. *And be it enacted by the authority aforesaid*, That all and every public act relative to roads and water-courſes, and coming within the meaning and purview of this act is and are hereby repealed and made void to all intents and purpoſes whatſoever. *Provided nevertheless*, That nothing in this act contained ſhall be conſtrued to alter the method of working on and clearing the rivers Neuſe, Dan, Roanoke and Trent in the manner by the laws heretofore enacted is directed.

C H A P. XVIII.

An act to amend an act, paſſed at the laſt ſeſſion of the General Aſſembly, entitled, an act for the relief of ſuch perſons as have been diſabled by wounds, or rendered incapable of procuring for themſelves and families ſubſiſtence, in the militia ſervice of this ſtate, and providing for the widows and orphans of ſuch as have died.

WHEREAS the mode preſcribed in the before recited act for the relief of perſons therein deſcribed, is found to be inconvenient to thoſe who apply to the general aſſembly, and an eſtimate of the amount, of ſuch applications and advances from the public treaſury cannot be made with eaſe and preciſion:

2. *Be it enacted by the General Aſſembly of the ſtate of* North-Carolina, *and it is hereby enacted by the authority of the ſame,* That at the firſt court which ſhall be held in each county after the firſt day of January in every year, the juſtices of the ſeveral county courts are empowered, and they are hereby authoriſed and required to receive the applications of all perſons within their counties reſpectively of the deſcription mentioned in the aforeſaid act, and thereupon determine ſuch ſum of money as they may judge neceſſary for the relief of ſuch perſons for one year, and enter the ſame upon record.

3. *And be it further enacted by the authority aforeſaid,* That the ſaid ſeveral county courts at their firſt ſeſſion on or after the firſt day of January in every year, are empowered, and they are hereby authoriſed and required to levy a tax within their reſpective counties, on the ſame principles and in the ſame proportion with reſpect to land, polls and other taxable property preſcribed for public and county taxes, as may be ſufficient to pay and diſcharge the ſeveral ſums which may be granted for the relief of the perſons deſcribed as aforeſaid.

4. *And be it further enacted by the authority aforeſaid,* That the tax ſo laid for the purpoſe aforeſaid, ſhall be collected and accounted for by the ſame officers, and under ſimilar rules, regulations and penalties; and they are entitled to the ſame emoluments as are or may be provided for the collection and payment of public and county taxes within this ſtate.

5. *And be it further enacted by the authority aforeſaid,* That the tax collected as aforeſaid, ſhall be paid into the hands of ſome diſcreet perſon appointed by the court as treaſurer for that purpoſe, who ſhall enter into bond with ſufficient ſecurity, conditioned for the faithful diſcharge of the truſt repoſed in him, and whoſe duty it ſhall be to receive the ſaid tax, and pay out the ſame agreeable to the order of the ſaid courts from time to time; for which ſervice the ſaid treaſurer ſhall be allowed two per cent. and no more; and every of the treaſurers ſo appointed as aforeſaid, ſhall lay before their reſpective county courts annually, a fair ſtate of their ſeveral accounts, under the penalty of two hundred pounds, recoverable in the ſaid county courts reſpectively, and applied in aid of the county tax.

6. *And be it further enacted by the authority aforeſaid,* That the ſeveral treaſurers aforeſaid ſhall, and they are hereby required, in the latter end of every third year after the firſt day of January next, to tranſmit to the public treaſury a fair and juſt ſtatement of all their receipts and payments during the three preceeding years, for the relief of the perſons before deſcribed reſpectively, under the penalty of five hundred pounds, to be recovered and applied to the uſe of the ſtate; and the ſaid public treaſurer is hereby required to lay the ſaid accounts before the next general aſſembly in order that the ſame may be examined and due credit given to ſuch counties as may have

advanced more than their equitable ſhare of money for the purpoſes aforeſaid.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Newbern, on the nineteenth day of November, in the year of our lord one thouſand ſeven hundred and eighty-five, and in the tenth year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of this aſſembly.

CHAP. II.

An act for encreaſing the juriſdiction of the county courts of pleas and quarter-ſeſſions, and of the juſtices of the peace out of court, and directing the time of holding the ſeveral courts of this ſtate.

7. *And be it further enacted by the authority aforesaid*, That in all trials for the recovery of debts contracted previous to the fourth of July, one thouſand ſeven hundred and ſeventy-ſix, no intereſt ſhall be allowed from that period until the fourth day of July, one thouſand ſeven hundred and eighty-two, where the debtor ſhall prove the creditor had refuſed to receive the current money of the ſtate, or had removed him or herſelf, or remained out of the ſtate within the aforeſaid time, or continued within the Britiſh lines.

CHAP. IV.

An act to enable the public treaſurer more effectually to recover public monies that are now due or hereafter may become due.

3. *And be it further enacted by the authority aforesaid*, That no application of the treaſurer to the clerk of any county court for a copy of the record certifying who was the ſheriff, receiver of quitrents and duties, and county treaſurer, and their ſecurities, for any one or more years ſince the year one thouſand ſeven hundred and fifty; or for the ſheriffs bonds, or a copy thereof if recorded in his ſaid office, or for the amount of the public taxes for any one or more years, or for the ſettlement made by any ſheriff with the court of ſuch county, the ſaid clerk is hereby directed and required to tranſmit the ſame unto the treaſurer, and for each and every copy made and tranſmitted by ſuch clerk, he ſhall be allowed the ſum of eight

ſhillings, to be paid out of the county tax, on his producing the treaſurer's receipt therefor.

4. *And be it further enacted by the authority aforeſaid,* That if any of the clerks of the ſuperior or county courts, ſhall fail or neglect to comply with the directions of this act, he or they ſo offending ſhall forfeit and pay the ſum of fifty pounds current money, to be recovered by action of debt in any court of record having cognizance thereof; and the public treaſurer is hereby required to commence and proſecute a ſuit or ſuits in the name of the governor for the ſame; and on recovery thereof to be applied as other public monies.

CHAP. XII.

An act directing that marriage ſettlements and other marriage contracts ſhall be regiſtered, and for preventing injury to creditors.

WAEREAS marriage ſettlements and other marriage contracts, binding the eſtates of the huſbands, have been frequently made and kept ſecret, whereby the poſſeſſors upon the credit of their apparent property have been enabled to contract great debts, to the manifeſt deception and injury of their creditors: For remedy whereof for the future,

1. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That all marriage ſettlements and other marriage contracts whereby any money or other eſtate ſhall be ſecured to the wife or huſband heretofore made, and which have not had their effect, ſhall be proved in the ſame manner as other deeds, and ſhall be regiſtered in the proper county on or before the firſt day of May next; and all marriage ſettlements and other marriage contracts hereafter to be made, ſhall be proved within ſix months after the making thereof, and regiſtered within one month thereafter; and all marriage ſettlements and other marriage contracts not proved and regiſtered according to the directions of this act, ſhall be void againſt creditors, any law to the contrary notwithſtanding.

2 And for preventing injury to creditors, *Be it enacted and declared by the authority aforeſaid,* That no marriage ſettlement or other marriage contract ſhall be good againſt creditors, where a greater value is ſecured to the intended wife and the children of the marriage, or either of them, than the portion actually received with the wife in marriage, and ſuch eſtate as the huſband at the time of his marriage ſhall be poſſeſſed of, after deducting the juſt debts by him then due and owing; and in caſe of any ſuit upon any ſuch marriage contract, where any creditor or creditors ſhall be a party, the burthen of the proof ſhall lie upon the perſon or perſons claiming under ſuch marriage contract. *Provided always,* That if any legacy or legacies ſhall be given to the wife in general words and not in truſt, or a diſtributive ſhare or ſhares of any inteſtate's eſtate ſhall fall to her during her coverture, ſuch legacies and deſtributive ſhares (in caſe the eſtate of the huſband and wife ſhall

not at the time of the marriage be of ſufficient value to make good the marriage contracts) ſhall be held, deemed and taken as part of the portion received with the wife, and ſhall be ſecured to thoſe claiming under ſuch marriage contract, any thing herein contained to the contrary notwithſtanding.

CHAP. XXIV.

An act to prevent perſons from ſtopping or obſtructing ways leading to houſes of public worſhip.

WHEREAS it may happen that perſons may be poſſeſſed of lands in ſuch manner as to enable them to ſtop and obſtruct the uſual ways leading to houſes of religious public worſhip:

I. *Be it therefore enacted by the General Aſſembly of the state of North Carolina, and it is hereby enacted by the authority of the ſame,* That any perſon who ſhall under pretence of owning the land or lands adjoining or ſurrounding any church, meeting houſe, or other houſe or houſes of religious public worſhip, ſtop or obſtruct, or cauſe the ſame to be done, the uſual way or ways leading to or from any of the aforeſaid places of public worſhip, or ſprings or wells thereby uſed, ſhall forfeit and pay the ſum of five pounds for every ſuch offence, to be recovered by an action of debt in any court of record in this ſtate; one half to go to the perſon ſuing for the ſame, the other half to be applied to the maintenance of the poor of ſuch county, any law or cuſtom to the contrary notwithſtanding. *Provided always,* That nothing herein ſhall ſubject any perſon to the penalty aforeſaid, who ſhall ſurround any ſpring or well with a fence, if ſuch fence ſhall not abſolutely render a paſſage to ſuch ſpring or well impracticable. *And provided alſo,* That no ſurrounding any piece of land, through which any of the aforeſaid ways ſhall lead, with a fence, ſhall ſubject any perſon to the ſaid penalty, if a paſſage ſhall be left to the church, meeting houſe or place of religious public worſhip of the ſame width at leaſt that ſuch way was uſually of. *And provided alſo,* That this act ſhall not be in force until the firſt day of April next.

LAWS OF NORTH-CAROLINA,

At a General Aſſembly, begun and held at Fayetteville, on the eighteenth day of November, in the year of our lord one thouſand ſeven hundred and eighty-ſix, and in the eleventh year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of the ſaid Aſſembly.

CHAP. IV.

An act to make the ſecurities therein named negociable.

WHEREAS it would contribute to the convenience of merchants, traders and other inhabitants, in the interchange of property which traffic makes neceſſary, that bills, bonds, and notes, as well thoſe with as thoſe without ſeal, ſhould be made negociable:

1. *Be it therefore enacted by the General Assembly of the state of North Carolina, and it is hereby enacted by the authority of the same*, That all bills, bonds, or notes for money, as well thoſe with ſeal as thoſe without ſeal, thoſe which are not expreſſed to be payable to order or for value received, as thoſe which are expreſſed to be payable to order and for value received, ſhall after the paſſing of this act be held and deemed to be negociable, and all intereſt and property therein ſhall be transferable by endorſement, in the ſame manner, and under the ſame rules, regulations and reſtrictions as notes called promiſſory or negociable notes have heretofore been: And the indorſee or aſſignee may have and maintain his action of the caſe for the recovery of the monies due him upon ſuch bill, bond or note, notwithſtanding any ſeal thereunto annexed, in his the ſaid indorſee's or aſſignee's own proper name, as ſuits have been heretofore had and maintained by indorſees or aſſignees of notes called promiſſory or negociable.

2. *And be it further enacted by the authority aforesaid*, That executors and adminiſtrators in the payment of the debts of their teſtators and inteſtates, ſhall hereafter hold and conſider debts due upon bills, bonds and promiſſory notes, whether with or without ſeal, and all ſettled and liquidated accounts ſigned by the debtor, as of equal dignity, and ſhall pay the ſame accordingly. *Provided always*, That executors and adminiſtrators ſhall in all other reſpects, except as aforeſaid, have the ſame right of preference in the payment of creditors, which they have heretofore had and held under the laws then in force.

3. *And be it further enacted by the authority aforesaid*, That all bonds, bills, notes, bills of exchange, liquidated and ſettled accounts, ſhall bear intereſt from the time they become due, provided that ſuch liquidated and ſettled accounts ſhall be ſigned by the debtor, unleſs it ſhall be ſpecially expreſſed that the

tereſt is not to accrue until a time ſpecially mentioned in the ſaid writings or ſecurities: *Provided alſo*, That this act ſhall not extend to, or have any operation with reſpect to any bonds, bills, notes, bills of exchange, liquidated or ſettled accounts heretofore given or made.

4. *And be it further enacted by the authority aforeſaid*, That all bills, bonds and notes made payable on demand, ſhall be held and deemed to be due on demand made by the creditor, his agent or attorney, by ſuit or requeſt, and ſhall bear intereſt accordingly.

5. *And be it further enacted*, That all ſecurities for the payment or delivery of Tobacco, and all other ſpecific articles, ſhall bear intereſt as monied contracts, that is to ſay, the articles ſhall be rated by a jury at the time they become due, and intereſt be paid by the debtors accordingly. *Provided always*, The act of limitation of this ſtate ſhall apply to all bonds, bills and other ſecurities hereafter executed, made transferable by this act, after the aſſignment or endorſement thereof, in the ſame manner as it operates by law againſt promiſſory notes: *And provided alſo*, That this act ſhall not be in force until the firſt day of May next.

CHAP. V.

An act to impoſe a duty on all Slaves brought into this ſtate by land or water.

WHEREAS the importation of ſlaves into this ſtate is productive of evil conſequences and highly impolitic:

1. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That from and after the paſſing of this act, a duty of fifty ſhillings per head on all ſlaves under ſeven and over forty years of age, and a duty of five pounds per head on all ſlaves between the age of ſeven and twelve years, and between the age of thirty and forty years, and a duty of ten pounds per head on all ſlaves of twelve years and upwards to the age of thirty years, ſhall be collected by the collectors of the different ports in this ſtate, on all ſlaves brought into any of the ſaid ports; which duty ſhall be collected and accounted for in the ſame manner, and under the ſame regulations as are preſcribed for collecting and accounting for the duties on goods, wares and merchandize, &c. imported into this ſtate.

2. *And be it further enacted by the authority aforeſaid*, That if any ſlave or ſlaves ſhall be brought into this ſtate by land, except as herein after excepted, the perſon or perſons who ſhall have the care of the ſame or claim thereto, ſhall within ten days after his or their arrival within the ſtate, make faithful return of the number of ſlaves ſo brought into the ſtate, to the clerk of the court of the county where he may be, and ſhall ſwear to and ſubſcribe the ſaid return or liſt, as juſt and true, and ſhall pay into the hands of the clerk the aforeſaid duties for each and every ſlave, for the uſe of the ſtate, or give bond

and ſufficient ſecurity for the payment of the ſaid ſum in three months after ſuch return is made; and upon failing to perform the condition of the ſaid bond, the clerk is hereby directed at the firſt court which may be held after the ſaid bond is due, to enter up final judgment thereon, and the court is hereby directed to award execution.

3. *And be it further enacted*, That the clerks of each court reſpectively, ſhall annually account with the treaſurer on oath, for all the duties they may receive in virtue of this act, under the ſame pains and penalties as they are liable to for failing to account for other public monies.

4. *And be it further enacted by the authority aforesaid*, That if any perſon or perſons who may bring ſlaves hereafter into this ſtate by land, ſhall fail or neglect to comply with the directions of this act, in making return of the ſame on oath as is by this act directed, he ſhall forfeit and pay the ſum of one hundred pounds for each ſlave ſo brought in and not accounted for, to be recovered in any court of record within this ſtate, one half to the perſon who ſhall ſue for the ſame, and the other half to the uſe of the ſtate; and ſhall be moreover liable to pay the aforementioned duty on each ſlave in manner as is before preſcribed: *Provided nevertheleſs*, That nothing in this act ſhall be conſtrued to compel any perſon or perſons who may remove to this ſtate with their families and property, in order to become citizens thereof, to pay the aforeſaid duty on any ſlave or ſlaves belonging to them; but in ſuch caſe the perſon or perſons bringing ſuch ſlave or ſlaves into this ſtate, ſhall, before ſome juſtice of the peace of the county in which he or ſhe may be, take the following oath:

I A. B. do ſwear, that the ſlaves brought by me into this ſtate are for my own ſervice, and that I have not brought them into the ſtate with intention to ſell or diſpoſe of them, or to evade the payment of the duties impoſed on ſlaves brought into this ſtate by land or water.—So help me God.

And provided also, That this duty ſhall not be impoſed or collected on any ſlaves which may become the property of any of the citizens of this ſtate, by gift, deviſe, marriage or deſcent; or any which are now the property of any of the ſaid citizens, and taken by the Britiſh in the late war, and which may be within any of the United States or elſewhere.

5. *Be it enacted*, That a tax of five pounds per head ſhall be levied and collected by the collectors of the different ports within this ſtate, upon all ſlaves imported therein from the coaſt of Africa, and which have not been more than one month in any other port or place after leaving the ſaid coaſt. *Provided*, That no ſlave born on the paſſage ſhall be ſubject to this tax.

6. *And be it further enacted*, That every perſon who ſhall introduce into this ſtate any ſlave or ſlaves, after the paſſing hereof, from any of the United States which have paſſed laws for the liberation of ſlaves, ſhall on complaint thereof before any juſtice of the peace, be compelled by ſuch juſtice to enter into bond with ſufficient ſurety in the ſum of fifty pounds cur-

rent money for each ſlave, for the removing of ſuch ſlave or ſlaves to the ſtate from whence ſuch ſlave or ſlaves were brought, within three months thereafter; the penalty whereof ſhall be recovered, one half to the uſe of the ſtate, the other for the uſe of the proſecutor, on failure of a compliance therewith; and the perſon introducing ſuch ſlaves ſhall alſo in caſe of ſuch failure, forfeit and pay the ſum of one hundred pounds, to be recovered by any perſon ſuing for the ſame, and applied to his own uſe.

7. *And be it enacted by the authority aforeſaid,* That all ſlaves brought into this ſtate, unleſs in veſſels which enter with the collectors of duties in ſome of the ports in this ſtate, ſhall be conſidered as having been brought in by land, and liable to the ſame fines, penalties and duties as is directed by this act. *Provided,* That nothing herein contained ſhall be conſtrued ſo as to impoſe the aforeſaid duty or forfeiture on any ſlave or ſlaves who may paſs through this ſtate to any other ſtate under the direction of their owners.

8. *And be it further enacted by the authority aforeſaid,* That this act ſhall not be in force or take effect, before the firſt day of February next.

9. *And be it further enacted,* That all laws and clauſes of laws which come within the meaning of this act, as far forth as they reſpect a duty or impoſition on ſlaves imported or brought into this ſtate by land or water, are hereby repealed and made void.

CHAP. XIII.

An act to direct the Method to appoint Jurors and Surveyors to run out diſputed Lands.

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That in all ſuits in the ſuperior and inferior courts of this ſtate wherein the bounds of land ſhall come in queſtion, if it ſhall appear to the court neceſſary, ſuch court may order two ſurveyors, one to be named by each party, to attend and run out and ſurvey the lands in diſpute agreeable to the bounds and lines expreſſed in each party's title, and make three accurate plans of ſuch ſurveys, and return the ſame to ſuch court; which order ſuch ſurveyors are hereby required to obey, and ſhall be allowed twenty ſhillings each, for every day they ſhall be travelling to and from attending the ſurveys, and performing the duty by this act required.

2. *And be it further enacted by the authority aforeſaid,* That twelve jurors, ſix of which ſhall be choſen by each party, ſhall go upon the lands, the bounds of which ſhall ſo come in queſtion, and ſhall attend the ſurveyors while they are making ſuch ſurvey, and ſhall ſubſcribe their names upon the plat or plats ſo to be returned by the ſaid ſurveyors, and ſuch Jurors ſhall at the court where ſuch diſputed bonds is to be tried, conſtitute a petty jury for the trial of the ſame; and if one or more of the ſaid jury ſhall fail to attend when ſuch bounds is to be

tried, his or their places ſhall be ſupplied by jurors drawn from the Venire Facias returned to the inferior or ſuperior court where ſuch caſe ſhall ſtand for trial; and ſuch jurors for their ſervices in attending ſuch ſurvey, ſhall have and receive eight ſhillings per day each, and ſuch allowances ſhall be taxed in the bill of coſts and paid by the party caſt. *Provided nevertheleſs*, That if the parties ſhall agree to have but one ſurveyor or a ſmaller number of jurors to go upon the land, the court ſhall order one ſurveyor to go upon the land, and perform the duties enjoined by this act, and ſhall return three plans in manner as aforeſaid; and the whole number of jurors ſo agreed upon by the parties, ſhall attend the ſaid court, and conſtitute part of the jury for the trial of the ſaid diſputed bounds and the reſidue of the jury ſhall be drawn from the Venire Facias returned to the ſaid court; and the ſaid jury ſo going upon the land ſhall be ſtiled the jury of view, and for attendance at the ſaid court ſhall be entitled to receive the ſame allowances as petit jurors, to be paid by the party caſt.

3. *And be it further enacted*, That all laws and parts or clauſes of laws heretofore made that come within the purview of this act, ſhall be, and the ſame are hereby repealed.

CHAP. XIV.

An act to amend an act, paſſed at Newbern, in December, one thouſand ſeven hundred and eighty-five, entitled an act for encreaſing the juriſdiction of the county courts of pleas and quarter ſeſſions, and of the juſtices of the peace out of court and directing the time of holding courts in this ſtate.

1. *Be it enacted by the general aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That in future it ſhall and may be lawful for the heirs, executors, adminiſtrators or guardians, to carry on every ſuit or action in courts after the death of either plaintiff or defendant and may be proceeded on by application in the ſame manner as appeals are carried on, under an act paſſed the laſt ſeſſion of aſſembly, entitled an act for encreaſing the juriſdiction of the county courts of pleas and quarter ſeſſions, and of the juſtices of the peace out of court, and directing the time of holding the ſeveral courts of this ſtate.

3. *And be it enacted*, That in any matter or ſuit depending in court, it ſhall and may be lawful for either plaintiff or defendant to enter his own plea and defend his own cauſe, and that no inſtrument of writing which contains the ſubſtance, ſhall be loſt or deſtroyed for want of form, any other law to the contrary notwithſtanding.

6. *And be it further enacted by the authority aforeſaid*, That every attorney when employed in any ſuit in any of the courts of this ſtate, ſhall file his declaration in the clerk's office, any time within the firſt three days of the term to which the writ is made returnable, and on failure thereof ſuch ſuit ſhall be diſmiſſed by the court at the coſt of the plaintiff; which coſt being paid

by ſaid plaintiff to the clerk of the ſaid court, he or they paying ſuch coſts in conſequence of a declaration not being filed in due time as aforeſaid, may warrant ſuch attorney for all ſuch coſts by him paid as aforeſaid ; and the receipt of the clerk ſhall and may be given in evidence in ſupport of ſuch claim ; and the juſtice before whom ſuch warrant ſhall be tried, may give judgment and iſſue execution thereon ; and ſuch attorney ſhall be further liable to the action of ſuch plaintiff, for ſuch damages as he or they may have ſuſtained in conſequence of ſuch declaration not having been filed as aforeſaid.

8. *And be it further enacted*, That the conſtables of this ſtate ſhall be appointed as uſual, who ſhall enter into bond payable to the governor, with ſufficient ſecurities, with the court, in the ſum of two hundred and fifty pounds, for the faithful diſcharge of his duty.

10. *And be it further enacted by the authority aforeſaid*, That when it ſhall ſo happen, that an execution in the hands of any conſtable in conſequence of a judgment from any juſtice of the peace, and there ſhall be no perſonal property in his county whereon to levy ſuch execution, then and in all ſuch caſes it ſhall be the duty of the conſtable to levy ſuch execution on the real eſtate of the perſon againſt whom it iſſued, and make return of ſuch his proceedings to the next enſuing county court that an order of ſuch court may direct the ſheriff of the county to diſpoſe of ſuch real eſtate, or ſo much thereof as the court, may direct, according to law.

C H A P. XVI.

An act to compel certain officers therein mentioned to publiſh the application of the public monies, and allowances for inſolvents.

WHEREAS it is juſt and right that the body of the people on whom taxes are laid, ſhould know to what purpoſes the monies ariſing therefrom are applied and appropriated : And whereas no adequate means have been adopted to draw into view the annual ſtate of the treaſury, and the application of the public monies :

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That the treaſurer or treaſurers ſhall from an accurate ſtate of the treaſury, which ſhall be laid before the general aſſembly of that year, and publiſhed and bound up with the laws of that ſeſſion, in which ſtatement ſhall be ſpecified the net produce of the ſeveral branches of revenue, the ſeveral allowances for inſolvencies, and the arrears of any of the ſheriffs or county treaſurers, all allowances or drafts made by the general aſſembly, and warrants iſſued by the governor, ſhall be ſeverally enumerated, briefly ſetting forth in whoſe favour they were made or drawn, and on what account.

2. And whereas it is found neceſſary to form ſome check againſt fraudulent and deficient returns of taxable property,

and to prevent improper allowances for inſolvents: *Be it enacted by the authority aforeſaid,* That the clerk of each county ſhall at the next court after the returns of the taxable property are directed to be made, ſet up in ſome conſpicuous part of the court-houſe an alphabetical liſt of the taxables and taxable property delivered or reported by the perſons appointed to take the liſts of taxable property, and when any collector ſhall return his liſt of inſolvents to be allowed by the court, he ſhall make oath that he hath been at the dwelling-houſe or uſual place of reſidence of the perſon or perſons therein named, and that he could not find property of ſuch perſon or perſons ſufficient to diſcharge their reſpective taxes, or any part thereof, which liſt ſhall alſo be advertiſed by the clerk in the court-houſe, ſpecifying each collector's diſtrict and return; and any clerk neglecting or refuſing to perform the duties required by this act, ſhall for every ſuch neglect or refuſal forfeit and pay the ſum of fifty pounds, to any perſon who ſhall ſue for the ſame within ſix months.

3. And whereas the poor have of late years conſiderably encreaſed, and large ſums have been annually levied for the charitable purpoſe of their ſupport, of the due application of which the people have no account or knowledge: *Be it further enacted by the authority aforeſaid,* That the wardens of the poor ſhall hereafter every year, at the next court of their reſpective counties after the firſt day of June, publiſh and ſet up in the court-houſe, an account of the monies by them received by taxes or otherwiſe for the purpoſes aforeſaid, with the uſe and application they have made of the ſame, particularly ſpecifying the expence of each pauper, with an account of the claims or ſuch debts unpaid, if any, and to whom due, under the penalty of one hundred pounds, to be ſued for and recovered by action of debt, in the name of the chairman of the court of the county where ſuch neglect ſhall happen, and applied to the uſe of the county.

4. And whereas large ſums are frequently levied for county purpoſes, which are within the management of the court or juſtices of each county: And whereas no money ought or can be levied as a tax, of which the people have not a right to know the application: *Be it enacted by the authority aforeſaid,* That the court of each county ſhall at the firſt ſeſſion after the firſt day of June in every year, cauſe the proper officer to publiſh and ſet up in ſome part of the court-houſe, an account of the monies received the preceding year by taxes or otherwiſe, ſtating alſo what application hath been made of the ſame, to whom paid, and what claims if any againſt the county remain undiſcharged.

5. *And be it further enacted by the authority aforeſaid,* That the commiſſioners of the reſpective towns in this ſtate ſhall annually publiſh an accurate liſt of the taxes levied and collected in ſuch town, together with a liſt of each ſum expended by ſaid commiſſioners, and to whom paid, and for what purpoſe; and any board of commiſſioners failing to comply with the directions and intention of this act, ſhall forfeit and pay the ſum of fifty pounds, to be recovered and applied in manner by this

act directed for the recovery and application of other fines, which ſum ſhall be levied of the proper goods and chattels of the ſaid commiſſioners, or either of them.

6. *And be it further enacted,* That all acts and parts of acts which come within the purview of this act, ſhall be and they are hereby repealed and made void.

CHAP. XVII.

An act to repeal the ſeveral acts of aſſembly reſpecting ſlaves within this ſtate, as far as the ſame relates to making an allowance to the owner or owners for any executed or outlawed ſlave or ſlaves.

WHEREAS many perſons by cruel treatment to their ſlaves, cauſe them to commit crimes for which many of ſaid ſlaves are executed, whereby a very burthenſome debt is unjuſtly impoſed on the good citizens of this ſtate: For remedy whereof,

1. *Be it enacted by the General Assembly of the state of North Carolina, and it is enacted by the authority of the same,* That from and after the paſſing of this act, the ſeveral acts of aſſembly of this ſtate, as far as relates to making an allowance for any outlawed or executed ſlave or ſlaves, ſhall be, and the ſame is hereby repealed and made utterly void.

CHAP. XVIII.

An act to amend an act, entitled, an act to empower the county courts of pleas and quarter-ſeſſions of the ſeveral counties in this ſtate, to order the laying out public roads, and to eſtabliſh and ſettle ferries, and to appoint where bridges ſhall be built, and to clear inland rivers and creeks.

5. *And be it further enacted by the authority aforesaid,* That when any perſon appointed as an overſeer of the roads in any county in this ſtate, he ſhall be deemed and held liable for any neglect in working on the roads, until he ſhall have made return to the court of his county, and ſhall make it appear to their ſatisfaction he has done the duties of an overſeer by law directed.

At a General Aſſembly, begun and held at Tarborough, on the eighteenth day of November, in the year of our lord one thouſand ſeven hundred and eighty-ſeven, and in the twelfth year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of the ſaid Aſſembly.

CHAP. VI.

An act to prevent thefts and roberies by ſlaves, free Negroes and mulattoes.

WHEREAS it is repreſented that ſlaves and free negroes are encouraged to rob or ſteal from the inhabitants all kinds of produce, by the facility with which they may conceal and diſpoſe of ſuch produce to the maſters of trading veſſels in the ſeveral bays, harbours, creeks and rivers within this ſtate.

2. *Be it therefore enacted by the General Aſſembly of the state of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the paſſing of this act, it ſhall not be permitted for the maſter or commander of any veſſel to entertain any ſlave, negro or mulatto on board ſuch veſſel at any time between ſun-set and ſun-riſe, nor during the Sabbath-day, unleſs ſuch ſlave, negro or mulatto as ſhall belong to the veſſel, or ſhall have a paſs from his, her or their maſter or miſtreſs, or from ſome juſtice of the peace, expreſſing the time and buſineſs for which they go on board: And if any ſlave, negro or mulatto who has not ſuch paſs, or is not ſtatedly employed on board the veſſel as one of the hands, ſhall be found on board any veſſel in any bay, harbour, creek or river within this ſtate on the Sabbath-day, or in the night between ſun-set and ſun-riſe, he ſhall be preſumed to have been diſpoſing of ſtolen goods; and the maſter or commander of ſuch veſſel, on complaint and conviction before any two juſtices of the peace ſhall be ſubject to a fine for entertainment of ſuch ſlave, negro or mulatto of five pounds for the firſt offence, and ten pounds for every ſucceeding offence to be applied to the uſe of the poor of the county in which such conviction ſhall be had: but any perſon diſſatisfied with the judgment of the ſaid two juſtices, ſhall have the right of appealing to the court of the county, the determination whereof ſhall be final; the perſon appealing to be ſubject to the ſame regulations as in the caſes of other perſons appealing from the judgment of a juſtice

2. And whereas the property of many of the citizens of this ſtate may be greatly affected by permitting a private intercourſe between ſlaves and free negroes and mulattoes: *Be it enacted by the authority aforesaid,* That if any free negroe or

mulatto ſhall entertain any ſlave in his or her houſe during the ſabbath, or in the night between ſun-ſet and ſun-riſe, he or ſhe ſhall for entertaining ſuch ſlave be ſubject to a fine of twenty ſhillings for the firſt offence, and forty ſhillings for every ſubſequent offence, to be recovered on conviction before any one juſtice of the peace, and applied to the uſe of the poor of the county in which the offence ſhall be committed, ſaving to the party the ſame right of appealing as aforeſaid. And in caſe the ſaid free negro or mulatto ſhall not be able to pay the fine aforeſaid, the conſtable who ſhall have attended at ſuch conviction, ſhall hire out ſaid free negro or mullatto to the perſon who ſhall take him or her for the ſhorteſt ſpace of time in payment of the ſaid fine with coſts, the ſaid conſtable having previouſly advertiſed at leaſt ten days at the door of the court-houſe and other public places of the ſaid county, that ſuch negro or mulatto would be hired out for the purpoſe aforeſaid; and the perſon who ſhall hire ſuch free negro or mulatto, ſhall be bound to pay at the time and place of ſuch hiring the amount of the fine with coſts as aforeſaid.

3. *And be it further enacted by the authority aforeſaid,* That in caſe any free negro or mulatto ſhall from and after the paſſage of this act, intermarry or cohabit with any ſlave, without the conſent of his or her maſter had in writing, and atteſted by two juſtices of the peace, ſuch free negro or mulatto ſhall be liable and held to pay to the maſter or miſtreſs of ſuch ſlave the ſum of ten pounds; and on failing to pay ſuch ſum, ſhall be held to ſervice to the maſter or miſtreſs of ſuch ſlave for and during the term of one year.

C H A P. XI.

An act for hiring out perſons convicted on indictment or preſentment, not being able or willing to pay the fees of office and gaoler's fees.

Whereas many perſons convicted on indictment take the benefit of the inſolvent act, either neglecting or refuſing to pay fees of office, and ſheriffs and gaoler's fees; to the great injury of the citizens of this ſtate: for remedy whereof.

1. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That all and every perſon who ſhall be found guilty of any charge exhibited againſt him or them by indictment or preſentment, and ſhall be unwilling or unable to pay the office and gaoler's fees that are or may be conſequent thereon ſhall be hired out by the ſheriff of the county where ſuch perſon is or may be convicted, for ſuch time as any perſon will take him or them to ſerve for the ſaid fees and charges, the ſaid ſheriff firſt advertiſing the time and place of hiring at leaſt ten days previous thereto.

CHAP. XIV.

An act to repeal the fourth ſection of an act paſſed at Newbern, in the year one thouſand ſeven hundred and eighty-four, entitled, an act to amend & ſupply the deficiencies of an act paſſed laſt aſſembly at Hillſborough, entitled, an act to regulate the deſcent of real eſtates, to do away entails, to make proviſion for widows, and to prevent frauds in the execution of laſt wills and teſtaments, and for directing how deeds of gifts and bills of ſales of ſlaves ſhall be executed, authenticated and perpetuated.

WHEREAS the operation of the fourth clauſe or ſection of the above mentioned act in a great meaſure deprives the widows of perſons dying inteſtate, of the juſt and reaſonable proportion and ſhare of the perſonal eſtate of their deceaſed huſband, as provided for them and expreſſed in an act of the general aſſembly of this ſtate paſſed at Hillſborough, in the year one thouſand ſeven hundred and eighty-four, entitled, an act to regulate the deſcent of real eſtates, to do away entails, to make proviſion for widows, and to prevent frauds in the execution of laſt wills and teſtaments:

1. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That from and after the paſſing of this act, the aforeſaid fourth ſection or clauſe of the firſt recited act paſſed at Newbern, in the year one thouſand ſeven hundred and eighty-four, ſhall be, and is hereby declared to be and remain null and void, to all intents and purpoſes, as if the ſame had never been made.

CHAP. XV.

An act to enable the county courts to appoint commiſſioners to keep open rivers and creeks at their ſeveral falls, ſo far as they think neceſſary for the paſſage of fiſh up the ſame.

WHEREAS it is neceſſary for the general good of the citizens of this ſtate that the ſeveral rivers and water courſes within the ſame ſhould be kept ſo far open as to allow a free paſſage for fiſh up the ſame:

1. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That the county courts of pleas and quarter ſeſſions ſhall be and they are hereby empowered to appoint commiſſioners to examine and lay off the rivers in their county, and where the river is a boundary between two counties, to lay off the river on the ſide of the county appointing ſuch commiſſioner; and further ſuch commiſſioner ſhall in laying off the rivers, allow three fourths of ſuch rivers for the owner or owners of the ſame for the purpoſe of erecting ſtops, dams and ſtands, and one fourth part including the deepeſt water of the river and creeks

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they ſhall leave open for the paſſage of fiſh, marking and deſignating the ſame in the beſt manner they can; and where any mill or mills are built acroſs any ſuch river or rivers, and ſlopes are or may be neceſſary, commiſſioners ſhall be appointed as above, who ſhall lay off ſuch ſlope or ſlopes and determine the length of time ſuch ſhall be kept open; and ſuch commiſſioners ſhall and they are hereby required to return to their reſpective county courts a plan of ſuch falls, dams and other parts of rivers as may have been thought neceſſary to ſurvey as above.

2. *And be it further enacted by the authority aforeſaid,* That all and every perſon or perſons who ſhall hereafter erect any ſtand, dam, wear or hedge, in ſuch part of the river as by this law is required to be left open for the paſſage of fiſh, or who ſhall not make and keep open any ſuch ſlope as the commiſſioners may judge neceſſary, ſhall forfeit and pay five pounds for every twenty-four hours, any perſon ſhall keep up, erect or make any ſuch ſtop, dam, ſtand, wear or hedge, or dam up or ſtop any ſuch ſlope, to be recovered by any perſon ſuing for the ſame, one half to his own uſe, the other half to be applied to the uſe of the county, either by warrant before a juſtice of peace, or in a court of law, as the caſe may require.

CHAP. XVI.

An act for accommodation of poſt-riders, and to amend an act, entitled, an act to empower the county courts of pleas and quarter-ſeſſions of the ſeveral counties in this ſtate to order the laying out public roads, and to eſtabliſh and ſettle ferries, and to appoint where bridges ſhall be built, and to clear inland rivers and creeks, paſſed at Newbern, the twenty-ſecond day of October, one thouſand ſeven hundred and eighty four.

WHEREAS it is repreſented that perſons who contract for riding poſt or carrying the public mail, are ſubject to great delays by detention at ferries, or to very grievous exactions, to the injury of the public:

1. *Be it therefore enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That ſuch perſon or perſons as may contract for riding poſt, or for carrying the mail in ſtages, ſhall be authoriſed to keep a boat and to employ hands for the ſole purpoſe of tranſporting the public mail, and ſuch paſſengers as may travel in the ſtage with the ſame, acroſs any ferry or ferries, without let or hindrance; any law to the contrary notwithſtanding. *Provided nevertheleſs,* That nothing contained in this act ſhall be ſo conſtrued as to authoriſe the contractors for riding poſt, or for carrying the mail by ſtage, to tranſport any other paſſengers acroſs at public ferries than ſuch as travel by the ſtage, and that no perſon or perſons ſhall pretend to tranſport any other paſſenger for pay at a public ferry, unleſs he or they are duly authoriſed ſo to do by the court of the county in which the

ferry may be, or of the county from which the paſſenger may be carried, under the penalty of five pounds for every offence, to be recovered before any juſtice of the peace, to the uſe of the perſon who may ſue for the ſame, ſubject nevertheleſs to an appeal by the party grieved to the county court.

CHAP. XVII.

An act authoriſing and empowering the county courts of pleas and quarter ſeſſions to divide and appropriate the real eſtate of inteſtates.

1. *Be it enacted by the General Assembly of the state of* North-Carolina, *and it is hereby enacted by the authority of the same,* That the judges of the ſuperior court of law and equity, and the juſtices of the county court of pleas and quarter-ſeſſions, be and they are hereby required and empowered, on petition of one or more perſons claiming the real eſtate of any inteſtate, to appoint five commiſſioners to divide and appropriate the ſame or ſo much thereof as ſhall be prayed for, and the court ſhall judge proper and requiſite according to law: *Provided,* That in all caſes where the real eſtate lies in different counties within this ſtate, ſuch petition ſhall be exhibited in the ſuperior court of the diſtrict where ſuch real eſtate or part of it lies and where the eſtate lies in one county only, the petition for a diviſion ſhall be to the court of ſuch county, and no otherways; and further ſaid commiſſioners or a majority of them, being firſt ſworn to do juſtice among the claimants according to the beſt of their ſkill and abilities, are hereby empowered to charge the more valuable dividend or dividends with ſuch ſum or ſums as the ſhall judge neceſſary to be paid to the dividend or dividends of inferior value, in order to make an equitable deviſion; which ſum or ſums ſo charged ſhall be paid to the owner or owners of the dividend or dividends of inferior value by or to the guardian or guardians, for and on account of the minors, within one year after the commiſſioners ſhall have made a return of their proceedings. And further the ſaid commiſſioners or a majority of them are hereby required, as ſoon as they can, to make a return of their proceedings and appropriations, under their hands and ſeals, aſcertaining with preciſion the different tracts or parcels of land, lots or houſes with actual ſurveys of the ſame when neceſſary, to the court by which they were appointed; which return and appropriation ſhall be certified by the clerk and enrolled in his office, and regiſtered in the office where ſuch lands, lots or houſes reſpectively lie, and ſuch return and appropriation ſhall be binding and valid in, among and between the claimants, their heirs and aſſigns forever.

2. *And be it enacted by the authority aforesaid,* That the ſaid commiſſioners for their trouble and ſervices, may take and demand whatever the court by which they may be appointed ſhall judge adequate to the trouble they may have been at, and for the expences incurred either to ſurveyors or otherwiſe; the

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ſaid expences to be paid in equal proportions by the claimants: And further, if ſaid charges are not paid on return of their proceedings and ſervices, execution ſhall and may iſſue againſt the petitioner or petitioners in the ſame manner as for the attendance of witneſſes.

CHAP. XVIII.

An act to empower the county courts to proceed in certain caſes therein directed.

WHEREAS in the courſe of the late war many accidents have happened by fire or otherwiſe, whereby the books of accounts, bonds and other writings and papers of perſons deceaſed have been deſtroyed, and the proofs of many debts, dues and demands due and owing to the ſaid deceaſed perſons, have been thereby rendered impaſſable, and by means of the ſaid accidents no recovery of the ſaid debts, dues and demands can be had in the ordinary courſe of law, and many orphans are likely to be greatly injured;

2. *Be it therefore enacted by the General Aſſembly of the state of North Carolina, and it is hereby enacted by the authority of the same,* That in all ſuch caſes, where the papers of any deceaſed perſon have been or ſhall hereafter be deſtroyed by accident, due proof being thereof made to the court of the county and entered on record by the direction of the court, it ſhall and may be lawful for the executors or adminiſtrators of ſuch perſon to prefer a petition for the recovery of any debt or demand due and owing from any perſon whatſoever, to the court of the county where the debtor reſides, in the manner and under the regulations preſcribed by an act for the better care of orphans, and ſecurity and management of their eſtates, paſſed in the year one thouſand ſeven hundred and ſixty-two, therein ſetting forth the ſaid debt and the amount thereof as nearly as may be, and the ſuppoſed origin thereof, and ſuch petition being filed in the clerk's office, the ſame proceedings ſhall be had therein, and the defendant ſhall be bound and ſubject to the ſame rules, as in the twenty-third ſection of the ſaid act and the laſt clauſe thereof is directed, as fully to all intents as if the ſaid clauſes and every ſentence thereof were herein particularly ſet down and expreſſed.

3. *And be it further enacted,* That this act ſhall in no caſe be allowed to take place but only where papers have been accidentally deſtroyed; nor where it ſhall appear to the court on trial there was uſed any kind of fraud to obtain the benefit of this act; in which laſt caſe the ſuit ſhall be diſmiſſed with coſt.

CHAP. XIX.

An act directing the clerks of the ſeveral courts of record within this ſtate as to their duty in office with reſpect to iſſuing writs.

WHEREAS tranſient perſons and others, having no property either real or perſonal in this ſtate, obtain writs and enter into litigious law-ſuits where they have not allegations ſufficient to ſupport a ſuit, or property to diſburſe the charges thereof in caſe of failure, much to the injury of the good citizens thereof: For remedy whereof,

1. *Be it enacted by the General Assembly of the state of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the firſt day of July next, no writ or other leading proceſs returnable to any of the courts of record within this ſtate, ſhall be granted by the clerk or his aſſiſtant in office, but under the following regulations and reſtrictions, to wit: That the clerk either by himſelf or his deputy, before iſſuing any writ or other leading proceſs, take ſufficient ſecurity of the perſon ſo applying, conditioned that they will proſecute ſuch ſuit or ſuits they may ſo commence, and in caſe of failure of ſuch proſecution pay to the defendant all ſuch coſts and damages as may be awarded againſt him by the court having cognizance thereof.

2. *And be it further enacted by the authority aforesaid,* That where any clerk, either by himſelf or his deputy in office, ſhall iſſue any writ or other proceſs, he ſhall enter the ſame into a book by him to be kept for that purpoſe, together with the names of the plaintiff and the defendant, the place of their abode, the name of the ſecurity or ſecurities for obtaining ſuch writ, and the place where they live, and have the ſame before the judges of the court where he may ſo officiate as clerk, ſubject to the examination of ſuch court.

3. *And be it further enacted by the authority aforesaid,* That if any clerk, either by himſelf or his aſſiſtant in office, ſhall iſſue any writ or other leading proceſs otherwiſe than by this act directed, he ſhall pay to the defendant the ſum of one hundred pounds, to be recovered by action of debt in the court where ſuch offence ſhall have been ſo committed; and alſo ſhall forfeit and pay the ſum of fifty pounds for every offence ſo committed by ſuch clerk or his aſſiſtant in office, recoverable in any court of record having cognizance thereof, one half to the uſe of the perſon ſuing for the ſame, the other half to the uſe of the poor of the county.

4. *And be it further enacted by the authority aforesaid,* That it ſhall and may be lawful for the clerk of ſuch court, to tax in the bill of coſts the ſum of two ſhillings for every ſecurity by him ſo taken, and alſo the ſum of two ſhillings for entering the ſame, together with the names of the ſecurity, in the book to be by him kept for that purpoſe; any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. XXII.

An act for making proceſs in Equity effectual againſt perſons who abſcond, and who reſide without the limits of the ſtate, and for better regulating the proceedings in courts of Equity.

WHEREAS perſons have ſometimes withdrawn themſelves beyond the limits of the ſtate, or otherwiſe abſconded, to avoid appearing in courts of equity; and whereas alſo, no means have been provided to cite perſons reſiding without the limits of the ſtate to appear in the ſaid courts: For remedy of the inconvenience thence ariſing,

I. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That if any ſuit which hath been or hereafter ſhall be commenced in any court of equity, any defendant or defendants againſt whom any ſubpœna or other proceſs ſhall iſſue, ſhall not cauſe his, her or their appearance to be entered on ſuch proceſs within ſuch time, and in ſuch manner, as according to the rules of the court the ſame ought to have been entered in caſe ſuch proceſs had been duly ſerved, and an affidavit or affidavits ſhall be made to the ſatisfaction of ſuch court, that ſuch defendant or defendants reſides or reſide beyond the limits of the ſtate, or that upon enquiry at his, her or their uſual place of abode, he, ſhe or they could not be found, ſo as to be ſerved with ſuch proceſs, and that there is juſt ground to believe that ſuch defendant or defendants is or are gone without the limits of the ſtate, or otherwiſe abſconded to avoid being ſerved with the proceſs of ſuch court, then and in ſuch caſes, the court out of which ſuch proceſs iſſued may make an order, directing and appointing ſuch defendant or defendants to appear at a certain day therein to be named; and in caſes where ſuch defendant or defendants reſides or reſide without the limits of the ſtate, a copy of ſuch order ſhall within ſixty days after ſuch order made, be inſerted in ſome Gazette regularly publiſhed within the ſtate, for ſuch length of time as the court ſhall order and direct, and may when they ſhall think neceſſary, direct ſuch order to be inſerted in any Gazette in the United States; and in caſes where ſuch defendant or defendants ſhall have withdrawn him, her or themſelves beyond the limits of the ſtate, or otherwiſe abſconded to avoid the ſervice of ſuch proceſs, a copy of ſuch order ſhall within ſixty days after ſuch order made, be inſerted in ſome Gazette regularly publiſhed within this ſtate, if any there be, for ſuch length of time as the court ſhall direct, and ſhall within the time aforeſaid, be poſted up at the door of the court-houſe where ſuch order ſhall be made, and alſo in ſome public place within the county where ſuch defendant or defendants reſpectively made his, her or their uſual abode within thirty days next before ſuch his, her or their abſenting; and if the defendant or defendants do not appear within the time limited by ſuch order, or within ſuch further time as the court ſhall appoint, then, on proof made of ſuch publication of ſuch order as aforeſaid, the court being ſatisfied of the truth thereof, may order the plaintiff's bill to be taken pro confeſſo, and make decree thereupon as ſhall be thought juſt ; and may thereupon iſſue proceſs as in other caſes to compel the performance of the decree, either by execution as hereinafter provided to ſatisfy the demands of the plaintiff or plaintiffs in the ſaid ſuit, or by cauſing the poſſeſſion of the eſtate and effects demanded by the bill to be delivered to the plaintiff or plaintiffs, or otherwiſe, as the nature of the caſe ſhall require. 1ſt. *Provided nevertheleſs*, That ſuch plaintiff or plaintiffs ſhall firſt give ſufficient ſecurity, in ſuch ſum as the court ſhall think proper, to abide ſuch order touching the reſtitution of ſuch eſtate or effects as the court ſhall think proper to make concerning the ſame, upon the defendant or defendants appearing and petitioning to have the ſaid cauſe reheard, & paying ſuch coſts to the plaintiff or plaintiffs as the court ſhall order. 2d. *Provided*, That if any decree ſhall be made in purſuance of this act, againſt any perſon or perſons reſiding without the limits of the ſtate at the time ſuch decree is pronounced, and ſuch perſon or perſons ſhall within two years after the making ſuch decree reſide within the ſtate, or become publicly viſible therein, then and in ſuch caſe he, ſhe or they ſhall likewiſe be ſerved with a copy of ſuch decree within a reaſonable time after his, her or their coming into the ſtate, or their public appearance ſhall be known to the plaintiff or pliantiffs ; and in caſe any defendant or defendants, againſt whom ſuch decree ſhall be made, ſhall within two years after the making of ſuch decree, happen to die before his or her coming into the ſtate, or appearing openly as aforeſaid, or ſhall within the time laſt before mentioned die in cuſtody, before his or her being ſerved with a copy of ſuch decree, then his or her heir of ſuch defendant ſhall have any real eſtate whereof poſſeſſion ſhall have been delivered to the plaintiff or plaintiffs, if ſuch heir may be found, or if ſuch heir ſhall be a feme covert, infant or non compos mentis, the huſband, guardian or committee of guardians of ſuch heir reſpectively, or if the perſonal eſtate of ſuch defendant ſhall have been levied upon or poſſeſſion thereof delivered to the plaintiff or plaintiffs, then his or her executor or adminiſtrator, if any ſuch there may be, may and ſhall be ſerved with a copy of ſuch decree within a reaſonable time after it ſhall be known to the plaintiff or plaintiffs that the defendant is dead, and who is his or her heir, executor or adminiſtrator, and where he, ſhe or they may reſpectively be ſerved therewith within the ſtate. 3d. *Provided always*, If any perſon or perſons ſo ſerved with a copy of ſuch decree, ſhall not within twelve months after ſuch ſervice appear and petition to have the ſaid cauſe reheard, ſuch decree ſo made as aforeſaid, ſhall ſtand abſolutely confirmed againſt the perſon or perſons ſo ſerved with a copy thereof, his, her or their reſpective heirs, executors and adminiſtrators, and all perſons claiming or to claim by, from or under him, her or them, or any of them, by virtue of any act done or to be done ſubſequent to the commencement of ſuch ſuit. 4th. *Provided nevertheleſs*, That if any perſon ſo ſerved with a copy of ſuch decree, ſhall within twelve months after ſuch ſervice, or if any perſon not being ſo ſerved, ſhall within three years next after the making ſuch decree, appear in court and petition to be heard with reſpect to the matter of ſuch decree, and ſhall pay down, or give ſecurity for payment of ſuch coſts as the court ſhall think reaſonable in that behalf, the perſon or perſons ſo petitioning, his, her or their reſpective repreſentatives, or any perſon claiming under him, her or them reſpectively, by virtue of any act done before the commencement of the ſuit, may be admitted to anſwer the bill exhibited, and iſſue may be joined, and witneſſes on both ſides examined, and ſuch other proceedings, decree and execution may be had thereon, as there might have been in caſe the ſame party had originally appeared, and the proceedings had then been newly began, or as if no former decree or proceedings had been in the ſame cauſe. 5th. *Provided nevertheleſs, And be it enacted by the authority aforeſaid,* That if any perſon or perſons againſt whom ſuch decree ſhall be made, his, her or their heirs, executors or adminiſtrators, ſhall not within three years next after the making of ſuch decree, appear and petition to have the cauſe reheard, and pay down, or give ſecurity for payment of ſuch coſts as the court ſhall think reaſonable in that behalf, ſuch decree made as aforeſaid ſhall ſtand abſolutely confirmed againſt the perſon and perſons againſt whom ſuch decree ſhall be made, his, her or their heirs, executors and adminiſtrators, and againſt all perſons claiming or to claim by, from or under him, her, them or any of them, by virtue of any act done or to be done ſubſequent to the commencement of ſuch ſuit; and at the end of ſuch three years, it ſhall and may be lawful for the court to make ſuch further order as ſhall be juſt and reaſonable according to the circumſtances of the caſe. 6th. *Provided always,* That this act ſhall not extend, or be conſtrued to extend to warrant or make good any proceedings againſt any perſon reſiding without the ſtate, unleſs the ground or cauſe of action, or the tranſaction on which the bill may be brought, took place within the limits of the ſtate.

2. Whereas the preſent mode of proceeding to carry into effect the decrees of the court of equity by attachment, habeas corpus, attachment with proclamation and commiſſions of rebellion, are in many caſes dilatory, oppreſſive and inadequate: *Be it enacted by the authority aforeſaid,* That in all caſes where decrees may have been made in any ſuit in equity in any of the courts in this ſtate, or ſhall hereafter be made for the ſum or ſums of money, it ſhall and may be lawful for execution to iſſue thereon againſt the defendant's body, or againſt his goods and chattels, lands and tenements, to ſatiſfy ſuch decree (and lands and tenements, goods and chattels, ſhall be found by ſuch decree and execution in the ſame manner as lands and tenements, goods and chattels, are by judgments and executions in law) and coſts, in the ſame manner as execution may or ſhall iſſue in the courts of law.

3. Whereas the drawing and enrolling of decrees, rules and orders in equity; require conſiderable ſkill, experience and attention; and whereas the preſent mode of adjuſting and ſtating accounts by auditors or commiſſioners, has been

found productive of great delay and difficulty: *Be it enacted by the authority aforesaid*, That the judges of the ſaid courts of equity ſhall appoint ſome perſon of ſkill and probity, to act as clerk and maſter in equity to each of the ſaid courts; who ſhall give ſecurity in the ſame manner, and take the ſame oath before the judges, as the clerks on the law ſide of the court, and ſhall hold his office during good behaviour; and the ſaid clerk ſhall keep a fair and diſtinct record of the proceedings of the court of equity to which he may be appointed; and the bills, anſwers and decrees ſhall be regularly enrolled in a well bound book kept for that purpoſe; and further, the ſaid maſter in equity is hereby fully empowered and authoriſed to adminiſter the oath or affirmation to all and every perſon and perſons, either witneſſes or others having buſineſs in the court of equity, at all times, in the ſame manner as maſters in chancery do in like caſes in Great-Britain.

4. And to prevent confuſion in conſtruing acts relative to the proceedings in ſaid courts: *Be it enacted by the authority aforesaid*, That from and after the expiration of the preſent ſeſſion of the general aſſembly, ſuch courts in all equity proceedings ſhall be ſtiled and called the court of equity for its reſpective diſtrict, and in all law proceedings, the ſuperior court of law for its reſpective diſtrict as formerly.

CHAP. XXXI.

An act to charge the eſtate Honorie Gerond, late of the town of Halifax, deceaſed, with the payment of all his juſt debts, and to prefer the ſame to the title acquired by this ſtate in the property which was of the ſaid Geroud in conſequence of his ſelf murder,

2. AND whereas ſuch forfeitures can anſwer no valuable purpoſe, and may diſtreſs creditors, innocent relations and orphans: *Be it enacted*, That in all caſes of ſuicide or ſelf-murder hereafter happening, adminiſtration may be applied for and granted as in the caſes of natural and ordinary death, and debts ſhall be paid and diſtribution made agreeable to the laws that are or may be made and provided for the management and diſtribution of the eſtates of perſons dying inteſtate; and no forfeiture ſhall be hereafter incurred by ſuicide or ſelf-murder; any law uſage or cuſtom to the contrary notwithſtanding.

LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Fayetteville, on the third day of November, in the year of our lord one thouſand ſeven hundred and eighty eight and in the thirteenth year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of the ſaid Aſſembly.

CHAP. VII.

An act to amend the ſeveral acts of aſſembly to prevent dealing or trafficking with ſlaves.

WHEREAS the laws and regulations made to prevent dealing and traffiicking with ſlaves, have been found inſufficient to prevent that pernicious practice,

1. *Be it therefore enacted by the General Aſſembly of the state of North Carolina, and it is hereby enacted by the authority of the same*, That if any free perſon ſhall either buy from or ſell to any ſlave or ſlaves, any kind of goods or commodities whatſoever, or any other thing, without a permiſſion in writing, ſetting forth the identical article or articles ſuch ſlave or ſlaves may have for ſale, from the maſter, miſtreſs or other perſon having the management of ſuch ſlave or ſlaves, every ſuch free perſon ſhall on conviction forfeit and pay the ſum of ten pounds, and be further liable to pay all damages that may accrue in coufequence of ſuch trading or trafficking; one half thereof to the perſon informing, the other half to the perſon injured, to be levied of his or her propeoty as other recoveries by law; and if the offender ſhall not have ſufficient property to ſatisfy the judgment, then ſuch offender ſhall be committed to cloſe cuſtody, and ſhall remain in priſon without bail or mainprize for any time not exceeding three months.

2. *And be it further enacted*, That if any ſlave or ſlaves ſhall hereafter offer any article whatever for ſale, without permiſſion from his or her owner, maſter or overſeer, it ſhall and may be lawful for any perſon knowing the ſame, to apprehend ſuch ſlave or ſlaves, and on due proof of the offence being made on oath before a juſtice of the peace of the county, he may order the ſaid ſlave or ſlaves to receive any number of laſhes, not exceeding thirty-nine, on his, her or their bare back. *Provided nevertheleſs*, That this act ſhall not have effect or be in force until after the firſt day of March next.

CHAP. XX.

An act to amend an act, entitled an act to prevent domeſtic inſurrections.

WHEREAS by the before recited act it is enacted, that no perſon ſhall liberate or ſet free his or her ſlave except for meritorious ſervices, to be adjudged and allowed of by the county court, and by the ſaid act it is directed in what manner and for what purpoſe ſlaves illegally liberated ſhall be apprehended and ſold : And whereas divers perſons, from religious motives, in violation of the ſaid law, continue to liberate their ſlaves, who are now going at large to the terror of the people of this ſtate : And whereas the mode preſcribed for apprehending ſuch ſlave or ſlaves, is found by experience not to anſwer the good purpoſes by the ſaid act intended, the power of apprehending liberated ſlaves being confined to freeholders only, and optional in them whether they will exerciſe the authority or not ; and it appearing the ſaid law is not fully adequate to the good purpoſes intended : Therefore,

1. *Be it enacted by the general aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That from and after the paſſing of this act, if any ſlave hath been liberated contrary to the before recited act, ſhould be ſtill within the limits of this ſtate, and all ſlaves liberated after the paſſing of this act, ſhould be known or ſuſpected to be lurking in any of the inhabited parts thereof, then and in ſuch caſe, on information made to any juſtice of the peace by any freeman, of ſuch liberated ſlave or ſlaves going at large or lurking about, contrary to the true intent and meaning of the ſaid act, then and in ſuch caſe the juſtice to whom ſuch information is made, is hereby empowered and required immediately to iſſue his warrant, directed to the ſheriff of the county, commanding him to make diligent ſearch and to apprehend all ſuch ſlave or ſlaves, and to commit him, her or them to the gaol of the county, there to remain until the next ſucceeding court of the county ; on which warrant all proceedings ſhall be regulated in the ſame manner as is directed by the before recited act ; and that the perſon or perſons apprehending any ſuch ſlave or ſlaves by virtue of any ſuch warrant, ſhall be entitled to the emoluments as is allowed to freeholders by the before recited act. *Provided nevertheleſs*, That nothing in this act ſhall be conſtrued to debar any freeholder or freeholders from ſtepping forward in the execution of ſaid law in the uſual manner, or to diveſt them of the emoluments given by the ſaid act.

C H A P. XXXII.

An act for appointing an additional judge of the ſuperior court of the diſtrict of Morgan, and for the relief of perſons who have or may hereafter forfeit their recognizances in the ſuperior and county courts.

2. And whereas application hath often been made to the general aſſembly by perſons who have forfeited their recognizances, and conceive they have reaſon to pray relief therein: *Be it enacted by the authority aforeſaid*, That the judges of the ſuperior court in their ſeveral diſtricts in court, are hereby fully authoriſed and empowered to receive, hear and determine on the petition or petitions of all perſons who may conceive they merit relief on their recognizances forfeited, and to leſſen or abſolutely remit the ſame, and to do all and every thing therein as they ſhall deem juſt and right, and conſiſtant with the welfare of the ſtate as well as the perſons praying ſuch relief; which power ſhall extend to the relief of thoſe perſons againſt whom final judgment hath been entered, and execution awarded accordingly.

C H A P. XXXIV.

An act to encourage the building of Iron-Works in this ſtate.

WHEREAS it appears to the general aſſembly, that ſeveral places in this ſtate are advantageouſly ſituated for the building of iron-works; and in order to encourage any perſon or perſons who will undertake and erect the ſame:

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That three thouſand acres of vacant land, not fit for cultivation, moſt convenient to the different ſeats, is hereby granted for every ſet of iron-works, as a bounty from this ſtate, to any perſon or perſons who will build and carry on the ſame; to be under the following rules and regulations, viz: Where any perſon or perſons intend to build iron-works, ſuch perſon or perſons may proceed to the entry-taker of the county where he intends to erect ſuch works, and enter in one or more tracts the quantity of bounty land allowed by this act for one ſet of works; and the entry-taker or entry-takers is and are hereby required to make out a copy of the land entered as aforeſaid, and tranſmit the ſame to the next court that ſhall be held in the county in which he or they are entry-takers.

2. *And be it further enacted by the authority aforeſaid*, That the court of any county in this ſtate, upon receiving the return of the entry-taker for the land as aforeſaid, ſuch court ſhall proceed to appoint a jury, conſiſting of twelve perſons, who are of good character; and the jury ſo appointed ſhall proceed to view the land in their county entered as aforeſaid, and if they ſhall adjudge the land ſo entered not fit for cultivation,

they ſhall certify the ſame in writing, and return the certificate to the next court held in their county, and the court upon receiving ſuch return, ſhall cauſe the certificate to be recorded by the clerk.

3. *And be it further enacted by the authority aforesaid,* That if any perſon or perſons who may enter land agreeably to this act, ſhall erect iron-works within the term of three years from the time of the jury's return, ſuch perſon or perſons, on making it appear to the court of the county that he or they have made at ſaid works five thouſand weight of iron, ſhall receive an order to the entry-taker, requiring him to iſſue the warrants for the bounty land.

4. *And be it further enacted by the authority aforesaid,* That ſuch entry-taker upon receiving ſuch order, ſhall proceed to iſſue warrants for the lands granted by this act, without receiving any money for the ſtate; and the ſurveyor upon receiving ſuch warrants, ſhall proceed to ſurvey the ſame as ſoon as convenient, and make return to the ſecretary's office, that grants may iſſue for the ſame; and ſuch grant or grants ſhall be as good and valid to the proprietors of ſuch works, their heirs or aſſigns, as if the purchaſe money had been paid: *Provided nevertheless,* That if any perſon or perſons ſhall enter land in purſuance of this act, and fail to erect iron-works according to the true intent and meaning thereof, the land ſo entered ſhall revert to the ſtate, unleſs the perſon who has entered the ſame pays the purchaſe money for the uſe of the ſtate.

5. *And be it further enacted,* That the bounty lands granted by this act ſhall be exempted from taxation for the term of ten years.

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LAWS OF NORTH-CAROLINA.

At a General Aſſembly, begun and held at Fayetteville, on the ſecond day of November, in the year of our lord one thouſand ſeven hundred and eighty-nine, and in the fourteenth year of the Independence of the ſaid ſtate: Being the firſt ſeſſion of the ſaid aſſembly.

CHAP. III.

An act for the purpoſe of ceding to the United States of America, certain weſtern lands therein deſcribed.

WHEREAS the United States in congreſs aſſembled, have repeatedly and earneſtly recommended to the reſpective States in the Union claiming or owning vacant Weſtern Territory, to make ceſſions of part of the ſame, as a further means, as well of haſtening the extinguiſhment of the debts, as of eſtabliſhing the harmony of the United States; and the inhabitants of the ſaid Weſtern Territory being alſo deſirous that ſuch ceſſion ſhould be made, in order to obtain a more ample protection than they have heretofore received: Now this ſtate being ever deſirous of doing ample juſtice to the public creditors, as well as the eſtabliſhing the harmony of the United States, and complying with the reaſonable deſires of her citizens.

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That the ſenators of this ſtate in the congreſs of the United States, or one of the ſenators and any two of the repreſentatives of this ſtate in the congreſs of the United States are hereby authoriſed, empowered and required to execute a deed or deeds on the part and behalf of this ſtate, conveying to the United States of America, all right, title and claim which this ſtate has to the ſovereignty and territory of the lands ſituate within the chartered limits of this ſtate, weſt of a line beginning on the extreme height of the Stone mountain, at the place where the Virginia line interſects it, running thence along the extreme height of the ſaid mountain, to the place where Wataugo river breaks through it, thence a direct courſe to the top of the Yellow mountain, where Bright's road croſſes the ſame, thence along the ridge of ſaid mountain between the waters of Doe river and the waters of Rock creek, to the place where the road croſſes the Iron mountain, from thence along the extreme height of ſaid mountain, to where Nolichucky river runs through the ſame, thence to the top of the Bald mountain, thence along the extreme height of the ſaid mountain to the Painted rock, on French Broad river, thence along the higheſt ridge of the ſaid mountain, to the place where it is called the great Iron or Smoaky mountain, thence along the extreme height of the ſaid mountain, to the place where it is called Uni-

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coy or Unaka mountain, between the Indian towns of Cowee & old Chota, thence along the main ridge of the ſaid mountain to the ſouthern boundary of this ſtate, upon the following expreſs conditions, and ſubject thereto: *That is to ſay*

Firſt. That neither the lands nor inhabitants weſtward of the ſaid mountain ſhall be eſtimated, after the ceſſion made by virtue of this act ſhall be accepted, in the aſcertaining the proportion of this ſtate with the United States in the common expence occaſioned by the late war.

Secondly. That the lands laid off, or directed to be laid off, by any act or acts of the general aſſembly of this ſtate for the officers and ſoldiers thereof, their heirs and aſſigns reſpectively, ſhall be and enure to the uſe and benefit of the ſaid officers, their heirs and aſſigns reſpectively; and if the bounds of the ſaid lands already preſcribed for the officers and ſoldiers of the continental line of this ſtate, ſhall not contain a ſufficient quantity of lands fit for cultivation, to make good the ſeveral proviſions intended by law, that ſuch officer or ſoldier, or his aſſignee, who ſhall fall ſhort of his allotment or proportion after all the lands fit for cultivation within the ſaid bounds are appropriated, be permitted to take his quota, or ſuch part thereof as may be deficient, in any other part of the ſaid territory intended to be ceded by virtue of this act, not already appropriated. And where entries have been made agreeable to law, and titles under them not perfected by grant or otherwiſe, then and in that caſe the governor for the time being ſhall, and he is hereby required to perfect, from time to time, ſuch titles, in ſuch manner as if this act had never been paſſed; and that all entries made by, or grants made to all and every perſon and perſons whatſoever, agreeable to law, and within the limits hereby intended to be ceded to the United States, ſhall have the ſame force and effect as if ſuch ceſſion had not been made, and that all and every right of occupancy and pre-emptions, and every other right reſerved by any act or acts, to perſons ſettled on and occupying lands within the limits of the lands hereby intended to be ceded as aforeſaid, ſhall continue to be in full force in the ſame manner as if the ceſſion had not been made, and as conditions upon which the ſaid lands are ceded to the United States. And further, it ſhall be underſtood that if any perſon or perſons ſhall have, by virtue of the act, entitled, an act for opening the land office, for the redemption of ſpecie and other certificates, and diſcharging the arrears due to the army, paſſed in the year one thouſand ſeven hundred and eighty-three, made his or their entry in the office uſully called John Armſtrong's office, and located the ſame to any ſpot or piece of ground on which any other perſon or perſons ſhall have previouſly located any entry or entries, that then and in that caſe, the perſon or perſons having made ſuch entry or entries, or their aſſignee or aſſignees, ſhall have leave and be at full liberty to remove the location of ſuch entry or entries to any lands on which no entry has been ſpecially located, or any vacant lands included within the limits of the lands hereby intended to be ceded. *Provided,* That nothing herein contained, ſhall extend or be conſtrued to extend to the making good any

1789. entry or entries, or any grant or grants heretofore declared void by any act or acts of the general aſſembly of this ſtate.

Thirdly. That all the lands intended to be ceded by virtue of this act, to the United States of America, and not appropriated as before mentioned, ſhall be conſidered as a common fund for the uſe and benefit of the United States of America, North-Carolina incluſive, according to their reſpective and uſual proportion in the general charge and expenditure, and ſhall be faithfully diſpoſed of for that purpoſe, and for no other uſe or purpoſe whatever.

Fourthly. That the territory ſo ceded, ſhall be laid out and formed into a ſtate or ſtates, containing a ſuitable extent of territory, the inhabitants of which ſhall enjoy all the privileges, benefits and advantages ſet forth in the ordinance of the late congreſs for the government of the weſtern territory of the United States; that is to ſay, whenever the congreſs of the United States ſhall cauſe to be officially tranſmitted to the executive authority of this ſtate, an authenticated copy of the act to be paſſed by the congreſs of the United States, accepting of the ceſſion of territory made by virtue of this act, under the expreſs conditions hereby ſpecified, the ſaid congreſs ſhall at the ſame time aſſume the government of the ſaid ceded territory, which they ſhall execute in a manner ſimilar to that which they ſupport in the territory weſt of the Ohio, ſhall protect the inhabitants againſt enemies, and ſhall never bar or deprive them or any of them, of privileges which the people weſt of the Ohio enjoy. *Provided always*, That no regulations made or to be made by congreſs, ſhall tend to emancipate ſlaves.

Fifthly. That the inhabitants of the ſaid ceded territory ſhall be liable to pay ſuch ſums of money as may, from taking their cenſus, be their juſt proportion of the debt of the United States, and the arrears of the requiſitions of the congreſs on this ſtate.

Sixthly. That all perſons indebted to this ſtate, reſiding in the territory intended to be ceded by virtue of this act, ſhall be held and deemed liable to pay ſuch debt or debts, in the ſame manner, and under the ſame penalty or penalties, as if this act had never been paſſed.

Seventhly. That if the congreſs of the United States do not accept the ceſſion hereby intended to be made, in due form, and give official notice thereof to the executive of this ſtate, within eighteen months from the paſſing of this act, then this act ſhall be of no force or effect whatſoever.

Eighthly. That the laws in force and uſe in the ſtate of North Carolina at the time of paſſing this act, ſhall be and continue in full force within the territory hereby ceded, until the ſame ſhall be repealed, or otherwiſe altered by the legiſlative authority of the ſaid territory.

Ninthly. That the lands of non-reſident proprietors, within the ſaid ceded territory, ſhall not be taxed higher than lands of reſidents.

Tenthly. That this act ſhall not prevent the people now reſiding ſouth of French-Broad, between the rivers Tenneſſee and

Pigeon, from entering their pre-emptions on that tract, ſhould an office be opened for that purpoſe under an act of the preſent general aſſembly.

2. *And be it further enacted by the authority aforeſaid,* That the ſovereignty and juriſdiction of this ſtate, in and over the territory aforeſaid, and all and every the inhabitants thereof, ſhall be and remain the ſame in all reſpects, until the congreſs of the United States ſhall accept the ceſſion to be made by virtue of this act, as if this act had never paſſed.

CHAP. VIII.

An act to prevent the exportation of raw hides, pieces of hides of neat cattle, and calf-ſkins, and alſo of beaver, racoon and fox furs.

WHEREAS the exportation of the hides, ſkins and furs above mentioned, is found detrimental to our own manufactures, which demand the attention of the legiſlature:

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That every maſter or owner of a veſſel at the time of his clearance out before the naval-officer, ſhall take the following oath, viz:

I A. B. Maſter or owner (as the caſe may be) of the called the do ſwear, that there are not on board of my veſſel, any raw hides, pieces of hides of neat cattle, calf-ſkins, nor any beaver, racoon or fox furs, for the purpoſe of exporting them out of this ſtate, either as cargo or adventure of my own, or any other perſons whomſoever; and that I will not knowingly or willingly ſuffer any perſon or perſons to export any of the ſaid kind of ſkins and furs out of this ſtate, in the veſſel of which I am commander or owner.

2. *Be it further enacted by the authority aforeſaid,* That if any captain or owner ſhall, after the paſſing this act, ſuffer or willingly permit any of the above mentioned articles to be brought on board his veſſel, it ſhall be deemed evidence of his intention of exporting the ſame, and ſhall forfeit five hundred pounds, to be recovered by action of debt in any court having juriſdiction, one half to the perſon ſuing, and the other half to the ſtate; and if the judge or judges before whom the ſame ſhall be tried, ſhall certify there was a reaſonable cauſe of action, the plaintiff or complainant ſhall not be ſubject to coſt.

3. *And be it further enacted,* That if any perſon ſhall by land convey any ſuch hides, ſkins or furs out of this ſtate into any other ſtate, for the purpoſe of ſelling the ſame, ſuch perſon on conviction ſhall ſuffer the ſame pains and penalties, as are before preſcribed for exporting ſuch hides, ſkins or furs by water, to be recovered in like manner, and applied to the ſame uſes. *Provided nevertheleſs,* That this act ſhall not extend to or be

in force in any county weſt of the Apalachian mountain: *And provided alſo*, That this act ſhall not be in force until the firſt day of January next.

CHAP. XXIII.

An act to amend an act, entitled, an act concerning proving of wills and granting letters of adminiſtration, and to prevent frauds in the management of inteſtates eſtates.

WHEREAS by the act, entitled, an act concerning proving of wills and granting letters of adminiſtration, and to prevent frauds in the management of inteſtates eſtates, the method of proceeding hath not been defined with ſufficient preciſion, whereby great irregularities have crept into practice, and complaints have been made of precipitate and injurious deciſions: For remedy whereof,

Be it enacted by the General Assembly of the state of North Carolina, and it is hereby enacted by the authority of the same, That all wills ſhall be proved and adminiſtrations granted in the court of the county where the teſtator or inteſtate had his uſual reſidence at the time of his death, or in caſe he or ſhe had fixed places of reſidence in more than one county, in either or any of the ſaid counties; and in caſe of a written will, with the witneſſes thereto, the ſame ſhall be proved by at leaſt one of the ſubſcribing witneſſes, if living, but if conteſted, ſhall be proved by all the living witneſſes, if to be found, and by ſuch other perſons as may be produced to ſupport ſuch will; and where the validity of any laſt will or teſtament, whether written or nuncupative, ſhall be conteſted, the ſame ſhall be invariably tried by a jury, on an iſſue made up under the direction of the court for that purpoſe; any uſage or law to the contrary notwithſtanding.

2. And whereas creditors have been greatly delayed in recovering their juſt debts, and executors and adminiſtrators put to great difficulty in the ſettlement of eſtates: *Be it enacted by the authority aforesaid*, That from and after the paſſing of this act, no executor or adminiſtrator ſhall hereafter take, hold or retain in his hands, more of the deceaſed's eſtate than amounts to his neceſſary charges and diſburſments, and ſuch debts as he ſhall legally pay within two years after adminiſtration granted; but that all ſuch eſtates ſo remaining, ſhall immediately after the expiration of two years, be divided, delivered and paid over to ſuch perſon or perſons to whom the ſame may be due by law or the will of the deceaſed, ſuch perſon or perſons, or ſome other for them, giving bond with two or more able ſureties, that if any debt or debts truly owing by the deceaſed ſhall be afterwards ſued for and recovered, or otherwiſe duly made appear, that then and in every ſuch caſe, he or they ſhall reſpectively refund and pay each his or her ratable part of that debt or debts out of the part or ſhare ſo as aforeſaid allotted to him or her; and ſuch bond ſo taken ſhall be made payable to the chairman of the county court for the time being, and

his ſucceſſors ; which ſaid bond ſhall be and enure to the ſole uſe and advantage of the creditors, and ſuch creditor or creditors ſhall and may have a ſcire facias in manner herein after directed, againſt the obligors in the ſaid bond, as if the ſaid bond had been drawn and delivered to ſuch creditor or creditors.

3. *And be it further enacted by the authority aforeſaid,* That the bonds ſo taken by executors or adminiſtrators from legatees, or perſons entitled to a diſtributive ſhare of the eſtate on an inteſtate, ſhall by ſuch executor or adminiſtrator be brought into court at the next ſucceeding court after ſuch bonds are ſo taken, and a record ſhall be made thereof; and the bonds then lodged in the office of the ſaid court with the records of the court: And in all ſuits where the executors or adminiſtrators of any deceaſed perſon ſhall plead fully adminiſtered, no aſſets or not ſufficient aſſets to ſatisfy the plaintiffs demand, and ſuch plea ſhall be found in favour of the defendant, the plaintiff may proceed to aſcertain his demand and ſign judgment; and on motion a writ or writs of ſcire facias ſhall and may iſſue, ſummoning ſuch perſons who have entered into bond as aforeſaid, to ſhew cauſe why execution ſhould not iſſue againſt them for the amount of ſuch judgment ; and if there ſhall be judgment againſt the defendant or defendants to the ſcire facias, or any of them, execution ſhall and may iſſue thereon againſt the proper goods and chattels, lands and tenements of ſuch defendant or defendants.

4. *And be it further enacted by the authority aforeſaid,* That the creditors of any perſon or perſons deceaſed, if he or they reſide within this ſtate ſhall within two years, and if they reſide without the limits of this ſtate ſhall within three years, from the qualification of the executors or adminiſtrators, exhibit and make demand of their reſpective accounts, debts and claims of every kind whatever to ſuch executors or adminiſtrators ; and if any creditor or creditors ſhall hereafter fail to demand and bring ſuit for the recovery of his, her or their debt as above ſpecified, within the aforeſaid time limited, he, ſhe or they ſhall forever be debarred from the recovery of his, her or their debt in any court of law or equity, or before any juſtice of the peace, within this ſtate. *Provided,* That nothing in this act ſhall extend to debar infants, perſons non compos or femes covert, to bring their ſeveral actions after the expiration of the term above mentioned, provided ſuch actions be brought within one year after the coming to lawful age, ſound mind or diſcoverture of ſuch perſons. *Provided alſo,* That if any creditor who after making demand of his debt or claim, ſhall delay to bring ſuit at the ſpecial requeſt of the executors or adminiſtrators, that then and in that caſe the ſaid debt or demand ſhall not be barred during the time of the indulgence.

5. And in order that all creditors may be duly appriſed of the death of any perſon indebted to them : *Be it enacted,* That every executor or adminiſtrator ſhall within two months after being qualified as executor or adminiſtrator, advertiſe at the

court-houſe of the county where the deceaſed uſually dwelt at the time of his death, and other public places in ſaid county, and at the diſtrict court-houſe at the next diſtrict ſuperior court of law and equity held for the diſtrict in which ſuch county may be, for all perſons to bring their accounts and demands of every kind and denomination to the ſaid executor or adminiſtrator agreeable to the directions of this act.

6. *And be it further enacted,* That all laws and parts of laws that come within the purview and meaning of this act are hereby declared void and of no effect.

CHAP. XXIV.

An act to amend and enlarge an act, paſſed at Tarborough, in the year one thouſand ſeven hundred and eighty-ſeven, entitled, an act authoriſing and empowering the county court of pleas and quarter-ſeſſions to divide and appropriate the real eſtate of inteſtates.

WHEREAS the before mentioned act has provided an eaſy, equitable and ſpeedy mode for dividing the real eſtates of inteſtates; and whereas it would tend greatly to the eaſe and convenience of all tenants in common to be included within the proviſions of ſaid act: Therefore,

1. *Be it enacted by the General Aſſembly of the ſtate of* North-Carolina, *and it is hereby enacted by the authority of the ſame,* That it ſhall and may be lawful, where real eſtates now are or hereafter may be held by two or more perſons as tenants in common, they ſhall and may have the ſame liberty and privilege of having their ſaid eſtates divided, as is provided by the ſaid act for dividing the eſtates of inteſtates; and the diviſions when made ſhall be good and effectual in law to bind the parties, their heirs and aſſigns.

CHAP. XXXIX.

An act to amend an act, entitled, an act directing the mode of proceeding againſt the real eſtate of deceaſed debtors, where the perſonal eſtate is inſufficient for the payment of the debts.

WHEREAS no mode of proceeding is directed by the ſaid act for the adminiſtrator to recover againſt the heirs, any debts that may be due and owing to him from the inteſtate, when the perſonal eſtate is inſufficient to diſcharge ſuch debt:

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That in all caſes where adminiſtration ſhall be granted to any perſon on account of his being a creditor of the inteſtate, and there ſhall not be perſonal aſſets ſufficient to ſatisfy the debts or demand of ſuch adminiſtrator, it ſhall and may be lawful

for ſuch adminiſtrator to prefer a petition againſt the heir or heirs of ſuch inteſtate, for the recovery of ſuch debt or demand, to the court of the county wherein ſuch adminiſtration was granted, or to the court of equity of the ſaid diſtrict in which ſaid county may be, in the manner and under the regulations preſcribed by an act, entitled, an act for the better care of orphans, and ſecurity and management of their eſtates, paſſed in the year one thouſand ſeven hundred and ſixty-two, therein ſpecially ſetting forth the nature of ſaid debt or demand, and the amount thereof, and praying that the heir or heirs of ſuch inteſtates may be made defendant or defendants thereto; and ſuch petition being filed in the clerk's office, the ſame proceedings ſhall be had thereon, and the defendant or defendants ſhall be bound and ſubject to the ſame rules as in caſe of petition under ſaid act, and if a decree ſhall be made againſt ſuch heir or heirs, or any of them, execution ſhall and may iſſue againſt the real eſtate of the deceaſed debtors in the poſſeſſion of ſuch heir againſt whom a decree ſhall be given as aforeſaid.

2. Whereas it is not juſt that by the practice or contrivance of any debtors, their creditors ſhould be defrauded of their juſt debts: & whereas it is reaſonable that the deviſee or deviſees of ſuch debtors ſhould be liable to ſuit for the debts of the teſtator, in like manner as heirs at law for the debts of their anceſtor: wherefore, *Be it enacted by the authority aforeſaid*, That all deviſees of lands, tenements and hereditaments, or of any rent, profit, term or charge out of the ſame, ſhall be deemed and taken only as againſt ſuch creditor or creditors, his, her, and their heirs, ſucceſſors, executors, adminiſtrators and aſſigns, and every of them, as null and void; and every ſuch creditor ſhall and may have and maintain his, her or their action or actions againſt ſuch deviſee or deviſees, in all caſe and in like manner as ſuch action or actions might or could be brought or maintained againſt the heir or heirs at law of ſuch deceaſed debtor, jointly with the heir or heirs at law, or ſeverally by virtue of this act.

3. *And be it further enacted by the authority aforeſaid*, That in all caſes where any heir at law ſhall be liable to pay the debt of his or her anceſtor, in regard of any lands, tenements or hereditaments, deſcending to him or her, or where any deviſee ſhall be liable to pay the debt of a teſtator in regard of any lands deviſed to him or her, and ſhall ſell, alien or make over the ſame before action brought or proceſs iſſued out againſt him or her, that ſuch heir at law or deviſees ſhall be anſwerable for ſuch debt or debts, to the value of the ſaid land ſo by him or her ſold, aliened or made over; in which caſes all creditors ſhall be preferred as in action againſt executors or adminiſtrators, and execution ſhall be taken out upon any judgment or decree obtained againſt ſuch heir or deviſee to the value of the ſaid lands, as if the ſame were his or her own proper debt, ſaving that the lands, tenements and hereditaments bona fide aliened before the action brought, ſhall not be liable to ſuch execution.

4. *Provided always, and be it further enacted by the authority*

aforeſaid, That when any ſuch heir or deviſee ſhall be a minor, and have a guardian, the leading proceſs ſhall be ſerved on ſuch guardian; and where the minor ſhall have no guardian, then and in that caſe the court ſhall appoint a guardian to defend the ſuit for ſaid minor.

5. *And be it further enacted*, That when any guardian ſhall have notice of any debt or demand againſt the eſtate of his or her ward, he or ſhe may apply to the county court wherein ſuch guardianſhip was granted, for an order to ſell ſo much of the perſonal or real eſtate of ſuch ward as may be ſufficient to diſcharge ſuch debt or demand; and ſuch order of the court ſhall particularly ſpecify what property may be ſo ſold, and ſuch property ſhall be ſold on the ſame credit and under the ſame regulations as property ſold by executors or adminiſtrators, is or may be by law; and the proceeds of ſuch ſales ſhall be conſidered as aſſets in the hands of the guardian for the benefit of the creditors, in like manner as aſſets in the hands of an adminiſtrator or executor, after fieri facias as by the act directed; & the ſame proceedings may be had againſt ſuch guardian with reſpect to the aſſets aforeſaid as might be had or taken againſt an executor or adminiſtrator in ſimilar caſes. *Provided nevertheleſs*, That no execution ſhall be levied on the goods or chattels, lands or tenements, of any minor in the hands of his guardian, until twelve months after judgment obtained on the fieri facias aforeſaid; nor ſhall execution iſſue liable as aforeſaid at any time but on motion in open court.

6. *And be it further enacted*, That ſo much of the ſaid recited act as requires that the pleas of executors or adminiſtrators ſhall be on oath, is hereby repealed and made void.

CHAP. XLI.

An act for the more eaſy redemption of mortgages.

WHEREAS mortgagees frequently bring actions of ejectment for the recovery of lands and eſtates to them mortgaged, and bring actions on bonds given by mortgagors to pay the money ſecured by ſuch mortgagers; and for performing the covenants therein contained, and likewiſe commence ſuit in the courts of equity to forecloſe their mortgagors from redeeming their eſtates, and the courts of law where ſuch ejectments are brought have not power to compel ſuch mortgages to accept the principal monies and intereſt due on ſuch mortgages and coſts, or to ſtay ſuch mortgagees from proceeding to judgment and execution in ſuch actions, but ſuch mortgagors muſt have recourſe to a court of equity for that purpoſe:

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame*, That from and after the paſſing of this act, where any action ſhall be brought on any bond for the payment of the money ſecured by ſuch mortgage, or performance of the covenants therein contained, or where any action of ejectment ſhall be brought in any of the ſuperior courts of law or courts of pleas

and quarter-ſeſſions in this ſtate, by any mortgagee or mortgagees, his, her or their heirs, executors, adminiſtrators or aſſigns, for the recovery of the poſſeſſion of any mortgaged lands, tenements or hereditaments, and no ſuit ſhall be then depending in any of the courts of equity in this ſtate, or touching the foreclosing or redeeming of ſuch mortgaged lands, tenements or hereditaments, and who ſhall appear and become defendant or defendants in ſuch action, ſhall at any time pending ſuch action pay unto ſuch mortgagee or mortgagees, or in caſe of his, her or their refuſal, ſhall bring into court where ſuch action ſhall be depending all the principal monies and intereſt due on ſuch mortgage,and alſo all ſuch coſts as have been expended in any ſuit or ſuits at law or equity upon ſuch mortgage, ſuch money for principal, intereſts and coſts to be aſcertained and computed by the court where ſuch action is or ſhall be depending, or by the proper officer by ſuch court to be appointed for that purpoſe, the monies ſo paid to ſuch mortgagee or mortgagees, or brought into ſuch court, ſhall be deemed and taken to be in full ſatisfaction and diſcharge of ſuch mortgage; and the court ſhall and may diſcharge every ſuch mortgagor or defendant of and from the ſame accordingly, and ſhall and may by rule or rules of the ſame court, compel ſuch mortgagee or mortgagees, at the coſt and charges of ſuch mortgagor or mortgagors, to aſſign, ſurrender or reconvey ſuch mortgaged lands, tenements and hereditaments, and ſuch eſtate and intereſt as ſuch mortgagee or mortgagees have or hath therein; and deliver up all deeds, evidences and writings in his, her or their cuſtody, relating to the title of ſuch mortgaged lands, tenements and hereditaments, unto ſuch mortgagor or mortgagors who ſhall have paid or brought ſuch monies into the court, his, her or their heirs, executors or adminiſtrators, or to ſuch other perſon or perſons as he, ſhe or they ſhall for that purpoſe nominate or appoint.

2. *Provided always*, That this act, or any thing herein contained, ſhall not extend to any caſe where the perſon or perſons againſt whom the redemption is or ſhall be prayed ſhall, by writing under his, her or their hands, or the hand of his, her or their attorney, agent or ſolicitor, to be delivered before the money ſhall be brought into ſuch court at law to the attorney or ſolicitor for the other ſide, inſiſt either that the party praying a redemption has not a right to redeem, or that the premiſes are chargeable with other or different principal ſums than what appear on the face of the mortgage, or ſhall be admitted on the other ſide; nor to any caſe where the right of redemption to the mortgaged lands and premiſes in queſtion in any caſe or ſuit, ſhall be controverted or queſtioned by or between different defendants in the ſame cauſe or ſuit; nor ſhall be any prejudice to any ſubſequent mortgagee or mortgagees or ſubſequent incumbrancer; any thing in this act contained to the contrary thereof in any wiſe notwithſtanding.

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CHAP. LVII.

An act directing the manner of iſſuing proceſs in ſundry caſes ariſing in the courts of law and courts of equity, to direct the manner of proceeding on aſſigned or indorſed bills, bonds and notes under ſeal, to direct how joint obligations ſhall ſurvive; and to repeal an act for calling forth the militia to aſſiſt in executing civil proceſs, and to prevent abatements and diſcontinuances in certain caſes.

WHEREAS the preſent mode of iſſuing writs and other proceſs for the appearance to the ſuperior courts, where there are two or more defendants who reſide in different counties, is frequently productive of great delay and expence: To prevent which in future,

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That from and after the paſſing of this act, it ſhall and may be lawful in all caſes where there are two or more defendants, for the plaintiff, in any ſuit in the ſuperior courts of law or courts of equity, to iſſue writs or ſupœnas as the caſe may be, directed to the ſheriff or coroner of each of the counties where the defendants are moſt likely to be found, noting on each proceſs that they are iſſued in the ſame ſuit, and when the ſame are returned they ſhall be docketed in the ſame manner as if only one had iſſued. And in caſe any defendant or defendants ſhould not be ſerved with ſuch proceſs, the ſame proceedings ſhall be had as in caſes of other ſimilar proceſs which has not been executed.

2. *And be it further enacted,* That when two or more perſons are joined in one action in any of the county courts of pleas and quarter-ſeſſions in this ſtate, and one of them ſhall be perſonally ſerved with a proceſs in the county from whence the writ iſſued, and the other or others ſhall reſide in ſome other county or counties in this ſtate, then and in that caſe it ſhall and may be lawful for proceſs to iſſue to the county or counties where the other defendant or defendants reſide, returnable to the court of the county from whence the ſame iſſued, any law to the contrary notwithſtanding,

3. And whereas by an act of the general aſſembly, paſſed at Fayetteville, in the year one thouſand ſeven hundred and eighty-ſix, entitled, an act to make the ſecurities therein named negociable, indorſees and aſſignees of bills, bonds and notes with ſeal, are directed to bring actions on the caſe on the ſame; which is inconſiſtent with the nature of ſuch ſecurities, and frequently proves injurious to indorſees and aſſignees of ſuch bills, bonds and notes: for remedy whereof, *Be it enacted,* That from and after the paſſing of this act, the indorſee or aſſignee of any bill, bond or note under ſeal, may have and maintain an action of debt on the ſame, in his or her own name as indorſee or aſſignee, provided the original obligee could have maintained an action of debt on the ſame bill, bond or note with ſeal; any law, cuſtom or uſage to the contrary notwithſtanding.

4. And whereas an act of the general aſſembly, paſſed at Newbern, in the year one thouſand ſeven hundred and eighty-four, entitled, an act for the more ready and effectual execution of proceſs iſſuing from the ſeveral courts of law and equity, in caſes where the ſheriff or coroner may be reſiſted, and the power of the county ſhould be found inſufficient for the purpoſe therefore, is found to be no longer neceſſary: *Be it enacted*, That the before recited act, and every part thereof, be and the ſame is hereby repealed and made void, to all intents and purpoſes as if the ſame had never been made or enacted.

5. And where it is a rule of common law, that in caſe of the death of a joint obligor, the debt can never ſurvive againſt his heirs, executors or adminiſtrators, which rule frequently is injurious and oppreſſive to the ſurviving obligor or obligors: to remedy which, *Be it enacted*, That from and after the paſſing of this act, in caſe of the death of one or more joint obligor or obligors, the joint debt or contract ſhall and may ſurvive againſt the heirs, executors and adminſtrators of the deceaſed obligor or obligers, as well as againſt the ſurvivor or ſurvivors; and when all the obligors ſhall die, the debt or contract ſhall ſurvive againſt the heirs, executors and adminiſtrators of all the ſaid joint obligors; and an all caſes of joint obligations or aſſumptions of copartners or others, entered into after the paſſing of this act, ſuits may be brought and proſecuted on the ſame, in the ſame manner as if ſuch obligations or aſſumptions were joint and ſeveral; any law, cuſtom or uſage to the contrary notwithſtanding.

6. And whereas by the law now in force in this ſtate, defendants to ſuits in equity cannot be held to bail without a ſpecial order from one of the judges for that purpoſe, which order can ſeldom be obtained, except in term time, without great delay and trouble: therefore, *Be it further enacted*, That in all caſes where the plaintiff or complainant in equity, ſhall ſpecially ſtate his debt or damages, and make oath or affirmation to the ſame, before the clerk and maſter in equity, it ſhall and may be lawful for the ſaid clerk and maſter in equity, to require the defendant or defendants to be held to bail, in the ſame manner as if the ſame had been by order of one of the judges of the ſuperior courts of law and courts of equity.

7. *And be it further enacted*, That where a term of the ſuperior court of law or the court of equity, or a ſeſſion of the court of pleas and quarter-ſeſſions, ſhall intervene between the death of any plaintiff or defendant and qualification of the executors or adminiſtrator of ſuch deceaſed plaintiff or defendant, the intervention of ſuch term or ſeſſion ſhall not work any abatement or diſcontinuance of ſuch ſuit; any law or uſage to the contrary notwithſtanding.

C H A P. LIX.

An act to amend an act, paſſed at Newbern, in November, one thouſand ſeven hundred and eighty-four, entitled, an act to explain, amend and ſupply the deficiencies of an act paſſed at Hillſborough, entitled, an act to regulate the deſcent of real eſtates, to do away entails, to make proviſions for widows, and to prevent frauds in the execution of laſt wills and teſtaments; and for directing how deeds of gift and bills of ſales of ſlaves ſhall be executed, authenticated and perpetuated.

WHEREAS in the ſeventh ſection of the above recited act it is required that all bills of ſale for negroes, and deeds of gift of any eſtate of whatever nature, ſhall within nine months after the making thereof be proved in due form and recorded; and all bills of ſale and deeds of gift not authenticated and perpetuated in manner by the ſaid act directed, ſhall be void and of no force whatever: And whereas it appears to this general aſſembly, that by unavoidable accidents many counties in this ſtate did not receive the laws in time for a number of the good citizens of this ſtate to avail themſelves of the benefit of the ſaid act, whereby many are likely to ſuſtain great damage: For remedy of which,

1. *Be it enacted by the General Aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame,* That all bills of ſale taken and deeds of gift made, and not already recorded in manner required by the before mentioned act, ſhall have a further time of twelve months allowed for probate and regiſtration; and ſhall when thus authenticated and perpetuated, be held and deemed as valid in law, to all intents and purpoſes, as if they had been proved and regiſtered within the time required by the aforeſaid recited act; any law, uſage or cuſtom to the contrary notwithſtanding.

2. *And be it further enacted by the authority aforeſaid,* That hereafter all bills of ſale of negroes, and deeds of gifts of any eſtate of whatever nature, ſhall within twelve months after the making thereof be proved in due form and recorded; alſo all bills of ſale and deeds of gift, not authenticated in manner by this act directed, ſhall be void and of no force whatſoever; any law to the contrary notwithſtanding.

1794

LAWS OF TENNESSEE.

PASSED at the firſt ſeſſion of the Territorial Aſſembly, begun and held at Knoxville, on Monday the twenty-fifth day of Auguſt: one thouſand ſeven hundred and ninety-four.

CHAP. I.

An act to amend an ‘an act eſtabliſhing courts of law, and for regulating proceedings therein.

1. *Be it enacted by the Governor, legiſlative council and houſe of Repreſentatives of the Territory of the United States of America ſouth of the river Ohio*, That from and after the paſſing this act, this territory ſhall remain divided into three diſtricts as heretofore, viz: the diſtrict of Waſhington, Hamilton, and Mero, in each of which a court for the trial of cauſes civil and criminal ſhall continue to be held at the times and places already by law appointed, and ſhall be diſtinguiſhed and known as heretofore by the name of the ſuperior court of law, in the diſtrict where the ſame ſhall be held; and the ſaid court ſhall conſiſt, as heretofore, of three judges, who ſhall have been appointed, commiſſioned and qualified as directed by the acts of congreſs paſſed under the federal conſtitution, and the ordinance of the old congreſs, of the thirteenth of July, one thouſand ſeven hundred and eighty-ſeven, who ſhall have cognizance and legal juriſdiction of all pleas, real, perſonal and mixt, and alſo of all ſuits and demands relative to legacies, filial portions, and eſtates of inteſtates, all pleas of the government, and criminal matters of what nature, degree, nor denomination ſoever, whether brought before them by original or meſne proceſs, or by certiorari, writ of error, appeal from any inferior court, or by any other ways or means whatſoever; and they are hereby declared to continue to have as heretofore, full power and authority to give judgment and to award execution and all other neceſſary proceſs thereupon; and to have, uſe, exerciſe and enjoy the ſame powers and authorities, rights, privileges, and pre-eminences as were had, uſed, exerciſed and enjoyed by the ſaid judges heretofore, except where it is otherwiſe directed by this or ſome other act, or where ſuch authorities, rights, privileges or pre-eminences, or any of them, may be inconſiſtent with, or repugnant to, the preſent form of government. And in caſe of the death or abſence of any of the ſaid judges, it ſhall and may be lawful for one or more of the ſame judges, by himſelf or themſelves, to hold any of the ſaid courts, and to take cognizance, and give judgment, and award execution in the ſame manner as all the ſaid judges might have done, had they been preſent.

2. And for the benefit of ſuitors, and to prevent irregulari-

ties in making up records, *Be it enacted*, That there ſhall be a clerk to each of the ſaid courts, of ſkill and probity, who, if they have not already, ſhall each of them give bond, with ſecurity payable to the governor and his ſucceſſors in office, of ten thouſand dollars, for the ſafe keeping of the records, and the faithful diſcharge of the duties of his office, which ſaid bond ſhall be lodged in the ſecretary's office, and may be put in ſuit on the aſſignment of the governor by the party or parties injured, in his or their own name; and ſhall not become void upon the firſt recovery, or if judgment be given againſt the plaintiff; but may from time to time be put in ſuit by action of debt, until the whole penalty be recovered.

3. *And be it further enacted*, That in caſe of the death, reſignation or removal from office of either of the clerks of the ſaid courts that his ſucceſſor in office ſhall take the following oath, viz:

I A. B. do ſwear that by myſelf or any other perſon, I neitheir have given, nor will give to any perſon or perſons whatſoever, any gratuity, gift, fee, or reward, in conſideration of my appointment to the office of clerk of the——— nor have I ſold, nor offered to ſell, nor will I ſell, or offer to ſell my intereſt in the ſaid office. I alſo, ſolemnly ſwear, that I do not directly or indirectly hold any other lucrative office in this territory. And I do further ſwear, that I will execute the office of clerk of the ——for the ——without prejudice, favour, affection or partiality, to the beſt of my ſkill and ability—So help me God.

And if it ſhall be diſcovered that any of the ſaid clerks ſhall have violated his oath, or willingly, wittingly or corruptly have done any thing contrary to the true intent and meaning of the ſaid oath, ſuch clerk ſhall be deemed, upon conviction, guilty of miſbehavior in office, and ſhall forever be incapable of holding any office, civil or military.

5. *And be it enacted*, That all real actions, actions of ejectment, treſpaſs, quare clauſum fregit, ſuits on penal ſtatutes, and pleas of the government ſhall be commenced in the court of the diſtrict wherein the cauſe of action ſhall ariſe, or the offence committed, and not in any other diſtrict; and all actions of debt, other than on penal ſtatutes, all actions of detinue and repliven, actions of account render, aſſault and battery, and for the unlawful taking of goods, all actions upon the caſe, and ſuits for legacies, and for diſtributive ſhares of inteſtates eſtates, ſhall be brought to the court of the diſtrict where both parties reſide; and where the parties live in different diſtricts, ſhall be brought to the court of either diſtrict, at the option of the plaintiff; and where the plaintiff ſhall reſide beyond ſeas, or in a different ſtate or government, ſhall be brought to the court of the diſtrict where the defendant reſides; and where any action or ſuit ſhall be brought otherwiſe than is herein directed, ſuch action or ſuit may be abated on the plea of the defendant.

6. *And be it enacted*, That no ſuit ſhall be originally commenced in any of the ſaid courts, for any debt or demand of leſs value than one hundred pounds, where the plaintiff and de-

fendant live in the ſame diſtrict, or for leſs than fifty pounds where the parties live in different diſtricts: And if any ſuit ſhall be commenced contrary to the true intent and meaning hereof; or if any perſon ſhall demand a greater ſum than is due on purpoſe to evade this act, in either caſe the plaintiff ſhall be non ſuited and pay coſts—*Provided always,* That if the plaintiff or any other perſon for him, will make affidavit (to be filed in the court) that the ſum for which his ſuit ſhall be brought is really due; but that for want of proof, or that the time limited for the recovery of any article bar a recovery, then, and in that caſe, ſuch plaintiff ſhall have a verdict and judgment for what appears to be legally proved, any thing before mentioned to the contrary notwithſtanding: *And provided alſo,* That nothing herein contained ſhall extend or be conſtrued to extend to ſuits on bonds, penal bills, or any other action of debt grounded on a penalty, where the balance due on ſuch bond or penal bill, or other action of debt, is of leſs value than the ſums herein before mentioned, to be limited for bringing ſuits in the ſaid courts.

7. *And be it further enacted,* That if any plaintiff, or other perſon, ſhall hereafter ſwear falſely, in order to obtain a recovery in any of the ſaid courts, he ſhall upon conviction thereof, be adjudged guilty of perjury, and ſuffer as in caſe of wilful and corrupt perjury.

8. *And be it enacted,* That none of the ſaid courts, nor any of the proceedings therein depending, ſhall be diſcontinued by reaſon of the death of any of the ſaid judges, or by their not attending at any term; but in ſuch caſes all pleas, cauſes, matters, and things therein depending, ſhall ſtand, continue, and remain in the ſame condition in which they ſhall then be, to the next ſucceeding term.

9. *And be it enacted,* That the clerk or attorney iſſuing proceſs, ſhall mark thereon the day on which the ſame ſhall be iſſued; and the ſheriff or other officer receiving the ſame in order to execute, ſhall in like manner mark on each proceſs, the day on which he ſhall have received it; and every clerk, attorney, ſheriff, or other officer neglecting ſo to do, ſhall forfeit and pay the ſum of one hundred and twenty-five dollars, to be recovered by action of debt, in any court of record having cognizance thereof, by any perſon who ſhall ſue for the ſame, with coſts.

10. *And be it enacted,* That all writs and other proceſs (except ſubpœnas for witneſſes returnable immediately) ſhall be returned the firſt day of the term to which the ſame ſhall be returnable, and ſhall be executed at leaſt ten days before the beginning of ſuch term. And if any original or meſne proceſs ſhall be taken out within ten days before the beginning of any term, ſuch proceſs ſhall be made returnable to the term next ſucceeding that which ſhall commence within ten days after taking out ſuch proceſs, and not otherwiſe; and all proceſs made returnable at any other term, or executed at any other time, or in any other manner than by this act is directed, ſhall be adjudged void upon the plea of the defendant: *Provided nevertheleſs,* That nothing herein contained, ſhall be conſtrued to

1794 invalidate or vacate any proceſs, warrant or precept to be iſſued by any of the judges of the ſaid court, or any juſtice of the peaec, or clerk of any court, on any criminal proſecution on behalf of the government; but that the ſame may be iſſued at any time, and made returnable to any day of the term; and the like proceedings on criminal ſuits and proſecutions, ſhall be agreeable to the practice heretofore in uſe in this government, except where the ſame is or may be otherwiſe directed, any thing herein contained to the contrary notwithſtanding.

11. *And be it enacted,* That when any writ ſhall iſſue from any of the ſaid courts, whereby any ſheriff or any other officer ſhall be commanded to take the body of any perſon or perſons, to anſwer to any action in any of the ſaid courts, ſuch ſheriff ſhall take bond with two ſufficient ſecurities, in double the ſum for which ſuch perſon or perſons ſhall be held in arreſt, (executors and adminiſtrators excepted) and ſhall return ſuch bond with the writ: And in caſe the ſheriff ſhall fail or neglect to take ſuch bail, or the bail returned be held inſufficient, on exception taken and entered the ſame term to which ſuch proceſs ſhall be returnable, the ſheriff having due notice thereof, he ſhall be deemed and ſtand as ſpecial bail, and the plaintiff may proceed to judgment according to the rules hereinafter preſcribed.

12. *And be it enacted,* That all bail bonds returned to any of the ſaid courts, ſhall be aſſigned by the ſheriff returning the ſame by endorſement thereon in the following form, viz.

"I A. B. ſheriff of county do hereby aſſign the within obligation and condition to C. D. the plaintiff therein named, his executors and adminiſtrators, to be ſued for according to the ſtatutes in ſuch caſe made and provided. In witneſs whereof I have hereunto ſet my hand and ſeal, the——day of——in the year of our lord one thouſand ſeven hundred and——

And every ſheriff failing to make ſuch aſſignment. ſhall be deemed, held and taken as ſpecial bail, in the ſame manner as if no bail bond had been returned.

13. *And be it enacted,* That when any ſheriff ſhall return, that he hath taken the body of any defendant, and committed him to the priſon of his county (which is hereby declared to be the proper priſon for ſuch commitment) the plaintiff may enter the defendant's appearance, and ſhall be at liberty to plead, as if ſuch appearance had been entered by himſelf; and the plaintiff may proceed to judgment, as in other caſes in this act directed: Neverthele ſs the defendant ſhall not be diſcharged out of cuſtody, but by putting in bail, or rule of court.

14. *And be it enacted,* That all bail taken according to the directions of this act, ſhall be deemed, held, and taken to be ſpecial bail, and as ſuch, liable to the recovery of the plaintiff: but the plaintiff, after final judgment, ſhall not take out execution againſt ſuch bail, until an execution be firſt returned, that the defendant is not to be found in his proper county, and until a ſcire facias hath been made known to the bail, which ſcire facias ſhall not iſſue until ſuch execution ſhall have been ſo returned; and after return of ſuch execution againſt the

principal, and ſcire facias, againſt the bail, execution may iſſue againſt the principal and ſecurities, or any of them, or any of their eſtates, unleſs the bail ſhall ſurrender the principal before the return of the firſt ſcire facias, or ſhall appear and plead upon the return thereof, any law, cuſtom, or practice to the contrary thereof in any wiſe notwithſtanding.

15. *And be it enacted*, That the bail ſhall have liberty, before final judgment obtained againſt him, to ſurrender to the court from which the proceſs iſſued, or to the ſheriff returning ſuch proceſs, during the ſitting of ſuch court, or to the ſheriff in the receſs of ſuch court, the principal in diſcharge of himſelf; and ſuch bail ſhall at any time before ſuch judgment had, have full power and authority to arreſt the body of his principal, and ſecure him until he ſhall have an opportunity to ſurrender him to the ſheriff who made the arreſt, or to the court to which the proceſs was returnable; and ſuch ſheriff is hereby required to receive ſuch ſurrender, and hold the body of the defendant in cuſtody, as if bail had never been given.

16. *And be it enacted*, That when any ſcire facias ſhall by the proper officer be returned to have been made known to the bail, and they in conſequence thereof ſhall appear, they ſhall be obliged to plead, and the iſſue ſhall be tried the ſame term to which the proceſs ſhall be returned, unleſs ſufficient cauſe be ſhewn to the court to the contrary; but the bail ſhall not be admitted to plead non eſt factum unleſs they firſt file an affidavit of the truth of their plea. *Provided nevertheleſs*, that if any ſheriff ſhall return, on a ſcire facias to him directed, that the principal is impriſoned by virtue of any proceſs, civil or criminal, the court to which ſuch ſcire facias is returnable, ſhall, on motion of the plaintiff, or bail, order and direct that ſuch principal be retained where he or ſhe ſhall be a priſoner until the plaintiff's judgment and coſts ſhall be paid, or he or ſhe otherwiſe diſcharged by due courſe of law; a copy of which order being ſerved on the keeper of ſuch priſon, before ſuch priſoner's releaſement, ſhall be a ſufficient authority for him to retain ſuch priſoner, until ſuch order be complied with, and ſhall be deemed a ſurrender of the principal, and a diſcharge of the bail.

17. And for the better aſcertaining what proceſs ſhall iſſue when the ſheriff ſhall return, that the defendant is not to be found within his county, *Be it enacted*, That when the ſheriff ſhall make ſuch return in any civil action, the plaintiff may, at his election, ſue out an attachment againſt the eſtate of ſuch defendant, or an alias or pluries capias until he be arreſted, returnable in the ſame manner as original proceſs; and if the ſheriff ſhall return any goods by him attached, and the defendant ſhall fail to appear and plead within the time herein directed, the plaintiff ſhall be entitled, if in an action of debt, to final judgment; and if in an action on the caſe, to an interlocutory judgment, and in conſequence thereof may execute a writ of enquiry the next ſucceeding term; and the goods ſo attached, if not replevied or ſold according to the rules herein after preſcribed for goods taken on original attachments, ſhall remain in cuſtody of the ſheriff until final judgment, and

then be diſpoſed of in the ſame manner as goods taken in execution on a writ of fieri facias; and if the judgment ſhal not be ſatisfied by the goods attached, the plaintiff may have execution for the reſidue.

18. *And be it enacted,* That in caſe any plantiff ſhall obtain judgment final, at the firſt term to which the proceſs ſhall be returnable, on an action of debt it ſhall be lawful for him to execute his enquiry as to the value of any foreign currency or money, for which the ſuit may be brought, at the ſame term in which ſuch judgment ſhall be entered or obtained.

19. *And be it further enacted,* That upon any complaint being made on oath, to any of the judges of the ſaid courts, or to any juſtice of any of the county courts, by any perſon or perſons, his, her or their attorney, agent or factor, that any perſon hath removed, or is removing him or herſelf out of the county privately, or ſo abſconds or conceals him or herſelf that the ordinary proceſs of law cannot be ſerved on ſuch debtor; and if ſuch plaintiff, his, her or their attorney, agent or factor further ſwears to the amount of his, her, or their debt or demand, to the beſt of his, her, or their knowledge and belief, it ſhall be lawful for ſuch judge or juſtice, and he is hereby empowered and required to grant an attachment againſt the eſtate of ſuch debtor wherever the ſame may be found, or in the hands of any perſon or perſons indebted to, or having any of the effects of the defendant, or ſo much thereof as ſhall be of value ſufficient to ſatisfy the debt or demand, and coſts of ſuch complaint; which attachment ſhall be returned to the court where the ſuit is cognizable, and ſhall be deemed a leading proceſs in ſuch action; and the ſame proceedings ſhall be had thereon as on judicial attachments: *Provided always,* That every ſuch judge or juſtice, before granting ſuch attachment, ſhall take bond and ſecurity, of the party for whom the ſame ſhall be iſſued, his, her, or their attorney, agent or factor, payable to the defendant, in double the ſum for which the complaint ſhall be made, conditioned for ſatisfying all coſts which ſhall be awarded to ſuch defendant, in caſe the plaintiff ſhall be caſt in the ſuit, and alſo all damages which ſhall be recovered againſt the plaintiff, in any ſuit or ſuits which may be brought againſt him for wrongfully ſuing out ſuch attachment; which bond, together with the affidavit of the party complaining, ſubſcribed with his proper name, ſhall be returned by the juſtice taking the ſame, to the court to which the attachment is returnable; and every attachment iſſued without bond and affidavit, taken and returned as aforeſaid, ſhall be abated on the plea of the defendant.

20. And for the eaſe and convenience of creditors and others who may be injured as aforeſaid, and to remove doubts with reſpect to the authority of the juſtices of the county courts in iſsuing attachments, *Be it enacted,* That it ſhall and may be lawful for any juſtice of the county courts, upon complaint made to him by any perſon or perſons as aforeſaid, to iſſue attachments under the rules and regulations before mentioned, and make the ſame returnable to any of the ſaid courts where

the ſame is cognizable, any law, uſage or cuſtom to the contrary notwithſtanding.

21. *And be it enacted*, That when any perſon, who ſhall be an inhabitant of any other government, ſo that he cannot perſonally be ſerved with proceſs, ſhall be indebted to any perſon a reſident of this territory, and hath any eſtate within the ſame, any of the ſaid judges or juſtices may grant an attachment againſt the eſtate of ſuch foreign perſon under the rules, reſtrictions and regulations before mentioned; and the ſame proceedings may be had thereon; and in caſe of the death of any debtor reſiding without the limits of this territory, leaving lands or other property therein, the creditor reſident within the territory ſhall in like manner be entitled to recover, by attachment againſt the executors and adminiſtrators; and execution ſhall iſſue accordingly againſt the property ſo left within the government.

22. *And be it enacted*, That when any goods or other eſtate ſhall be attached by virtue of any attachment, whether judicial or original, it ſhall and may be lawful for the defendant or defendants, his, her or their attorney, agent or factor to replevy the ſame by giving bond with ſufficient ſecurity to the ſheriff or other officer ſerving ſuch attachment; which ſaid bond the ſheriff or other officer is hereby empowered and required to take, to appear at the court to which ſuch attachment is returnable, and to abide by, perform and ſatisfy the order and judgment of ſuch court; and when the eſtate attached, ſhall by three juſtices of the county court, to be ſummoned by the ſheriff for that purpoſe, be certified on oath to be periſhable, and the perſon or perſons to whom it belongs, his, her or their attorney, agent, or factor, ſhall not within ſixty days after ſerving ſuch attachment, replevy the ſame, then ſuch eſtate ſhall be ſold at public vendue, by the ſheriff or other officer, he having firſt advertiſed ſuch ſale at the court-houſe, and other public places in his county, at leaſt twenty days before the ſale; and the money ariſing by ſuch ſale ſhall be liable to the judgment obtained upon ſuch attachment, and depoſited in the hands of the clerk of the court to which the proceſs ſhall be returnable, there to wait the event of ſuch judgment. And where the ſheriff or other officer ſhall ſerve an attachment in the hands of any perſon or perſons ſuppoſed to be indebted to, or ſuppoſed to have any of the effects of the party abſconding, or reſiding out of the government, he ſhall at the ſame time, ſummon ſuch perſon or perſons as a garniſhee or garniſhees, in writing, to appear at the court to which the attachment ſhall be returnable, within the firſt four days of the firſt term thereof, there to anſwer upon oath, what he or ſhe is indebted to the defendant, and what effects of the defendant he or ſhe hath in his or her hands, and had at the time of ſerving ſuch attachment, and what effects or debts of the defendant there are in the hands of any other, and what perſon, to his or her knowledge or belief; and where any attachment ſhall be ſerved in the hands of any garniſhee in manner aforeſaid, it ſhall be lawful, upon his or her appearance and examination, to enter up judgment, and award execution againſt any ſuch garniſhee, for all ſums of money due to the de-

fendant from him or her, and for all effects and eſtate of any kind, belonging to the defendant, in his or her poſſeſſion or cuſtody, for the uſe of the plaintiff, or ſo much thereof as ſhall be ſufficient to ſatisfy the debt and coſts, and all charges incident on levying the ſame; and all goods and effects whatſoever in the hands of any garniſhee or garniſhees, belonging to any defendant, ſhall be liable to ſatisfy the plaintiff's judgment, and ſhall be delivered to the ſheriff or other officer ſerving the attachment. And where any garniſhee ſhall be returned by the ſheriff or other officer, ſummoned in manner aforeſaid, and ſhall fail to appear and diſcover, on oath, as by this act directed, it ſhall be lawful for the court, after ſolemnly calling the garniſhee, and ſuch court is hereby authoriſed and required to enter a conditional judgment againſt ſuch garniſhee; and upon ſuch judgment ſo entered, a ſcire facias ſhall iſſue againſt ſuch garniſhee, returnable to the next term, to ſhew cauſe, if any he hath, why final judgment ſhould not be entered againſt him; and upon ſuch ſcire facias being duly executed and returned, if ſuch garniſhee ſhall fail to appear at the next term and diſcover, on oath, in manner aforeſaid, the court ſhall confirm ſuch judgment, and award execution for the plaintiff's whole judgment and coſts. And if upon the examination of any garniſhee, it ſhall appear to the court, that there is any of the defendant's eſtate in the hands of any perſon or perſons, who have not been ſummoned, ſuch court ſhall upon motion of the plaintiff, grant a judicial attachment, to be levied in the hands of ſuch perſon or perſons, having any of the eſtate of the defendant in his, her or their cuſtody or poſſeſſion, who ſhall appear and anſwer, and be liable, as other garniſhees.

23. And whereas divers perſons reſiding in other ſtates or governments, poſſeſſed of lands, tenements and hereditaments, in this territory, may have contracted, or may contract debts with the inhabitants of this territory, without having perſonal eſtate in the ſame to ſatisfy ſuch debts and damages: And whereas by the policy and genius of our preſent government lands and tenements ought to be made ſubject to the payment of juſt debts when the debtor hath not within the limits of the territory goods and chattels ſufficient to ſatisfy the ſame, *Be it therefore enacted,* That all proceſs which heretofore iſſued againſt goods, chattels, lands and tenements, ſhall for the future iſſue in the ſame manner; and ſuch as iſſued only againſt goods and chattels, ſhall hereafter iſſue againſt lands and tenements, as well as goods and chattels. And the ſheriff, upon ſuch attachment, execution or other proceſs, ſhall proceed to levy the ſame upon the goods and chattels of the defendant in the firſt inſtance, if any there be; but if, to the beſt of his knowledge, there be no ſuch goods and chattels, or not ſufficient to anſwer the plaintiff's demand, he ſhall execute the ſame upon the lands and tenements to the amount of the whole debt, or of ſo much as may remain more than the value of the goods and chattels ſo found. And ſuch lands and tenements ſhall be liable under the reſtriction aforeſaid, to be ſold to ſatisfy the judgment of the plaintiff; and where any ſheriff ſhall

have levied proceſs upon lands and tenements in manner aforeſaid, and judgment ſhall have been thereupon had, he ſhall not proceed to ſell the ſame, until in the moſt public place in his county, he ſhall, forty days at leaſt before the day of ſale, have advertiſed the ſame. *Provided always*, That it ſhall be lawful for any perſon, againſt whoſe eſtate any attachment hath iſſued as aforeſaid, his or her attorney, agent or factor, at any time before final judgment entered, or writ of enquiry executed, upon giving ſpecial bail, to replevy the eſtate ſo attached, and plead to iſſue, ſo that the plaintiff is not thereby delayed of his trial. *And provided also*, That no judicial proceſs ſhall be iſſued againſt the eſtate of any perſon reſiding without the limits of this territory, unleſs ſuch proceſs is grounded on an original attachment, or unleſs the leading proceſs in the ſuit has been executed on the perſon of the defendant, when within the territory.

24. And to prevent errors in iſſuing attachments, and taking bonds thereupon, *Be it enacted*, That the attachments ſhall be in the following form, that is to ſay—

Territory of the United States of America ſouth of the river Ohio.

To the Sheriff of——County, Greeting:

Whereas A. B. (or A. B. attorney, agent or factor, as the caſe may be, of C. D.) hath complained on oath to—— eſquire, juſtice of the ſuperior courts of law, (or of the county court of——) that E. F. is juſtly indebted to him (or to the ſaid A. B.) to the amount of——. And oath having been alſo made, that the ſaid E. F. hath removed, or is about to remove himſelf out of your county, or ſo abſconds, or conceals himſelf, that the ordinary proceſs of the law cannot be ſerved on him (or is an inhabitant of another government, if the caſe is ſo) and the ſaid——having given bond and ſecurity according to the directions of the act of the general aſſembly in ſuch caſe made and provided: We therefore command you, that you attach the eſtate of the ſaid E. F. if to be found in your county, or ſo much thereof, repleviable on ſecurity, as ſhall be of value ſufficient to ſatisfy the ſaid debt and coſts, according to the complaint: And ſuch eſtate, ſo attached, in your hands to ſecure, or ſo to provide, that the ſame may be liable to further proceedings thereupon, to be had at the court to be held for—— of——at——on the——day of—— next, ſo as to compel the ſaid E. F. to appear and anſwer the above complaint of the ſaid——when and where you ſhall make known to the ſaid court how you ſhall have executed this writ. Witneſs——, eſquire, juſtice of the ſaid——court, at——the——day of——in the——year of American Independence.

Which attachment ſhall be ſigned and ſealed by the juſtice granting the ſame. And the bond to be given on obtaining ſuch attachment, ſhall be in the following form, to wit:

Know all men by theſe preſents, that we——, all of the county of——, are held and firmly bound unto——, in the ſum of——, to be paid to the ſaid——, his certain attorney, executors, adminiſtrators or aſſigns. For the which payment well and truly to be made, we bind ourſelves and each of us, our and each of our heirs, executors or adminiſtrators, jointly and ſeverally, firmly by theſe preſents. Sealed with our ſeals, and dated this—— day of———, in the year of our lord one thouſand ſeven hundred and ——.

The condition of the above obligation is ſuch, that whereas the above bounden———, hath the day of the date hereof, prayed an attachment at the ſuit of———— againſt the eſtate of the above named————, for the ſum of ———, and hath obtained the ſame, returnable to the——court, to be held at——, on the——day of———next: Now, if the ſaid———ſhall proſecute his ſuit with effect, or in caſe he fail therein, ſhall well and truly pay and ſatisfy the ſaid———all ſuch coſts and damages as ſhall be awarded and recovered againſt the ſaid———his heirs, executors, or adminiſtrators, in any ſuit or ſuits which may be hereafter brought for wrongfully ſuing out of ſaid attachment, then the above obligation to be void, otherwiſe to remain in full force and effect.

*Provided neverthele*ſ*s*, That no attachment ſhall be abated for want of form, if the eſſential matters expreſſed in the foregoing precedent be ſet forth in ſuch attachment.

25. *Be it enacted*, That in all ſuits commenced or proſecuted by attachment, againſt the eſtate of perſons reſiding out of this government, the court to which the ſame ſhall be brought, ſhall ſtay all proceedings in ſuch ſuits for ſo long time as they may think neceſſary, not leſs than ſix months, nor exceeding one year, from the time of the return of ſuch proceſs. And where it can be conveniently done, notice ſhall iſſue from the court to the defendant , and if the defendant appear, put in bail, and plead within the time limited for his appearance, in ſuch caſe his eſtate ſhall be liberated, and the garniſhee diſcharged. And it ſhall be lawful for the jury to give in damages legal intereſt upon the plaintiff's recovery, during the time of ſuch extraordinary continuances, even in caſes where intereſt is not uſually allowed in the courts.

26. *And be it enacted*, That the following rules and methods ſhall be obſerved in the ſaid courts, viz :

That every plaintiff, or his attorney, when employed in any ſuit, in any of the courts of this government, ſhall file his declaration in the clerk's office any time within the firſt three days of the term to which the writ is made returnable, and on failure thereof, ſuch ſuit ſhall be diſmiſſed by the court, at the coſt of the plaintiff ; which coſt being paid by ſaid plaintiff to the clerk of the ſaid court, he or they praying ſuch coſts in conſequence of a declaration not being filed in due time as aforeſaid, may warrant ſuch attorney for all ſuch coſts by him paid as aforeſaid ; and the receipt of the clerk ſhall and may be given in evidence in ſupport of ſuch claim ; and the juſtice before whom ſuch warrant ſhall be tried, may give judgment and iſſue execution thereon ; and ſuch attorney ſhall be further liable to the action of ſuch plaintiff, for ſuch damages as he or they may have ſuſtained in conſequence of ſuch declaration not having been filed as aforeſaid.

The defendant ſhall appear and plead or demur within the firſt three days after the time allowed for filing the declaration, otherwiſe the plaintiff may have judgment by default, which in actions of debt ſhall be final, unleſs where damages are ſuggeſted on the roll; and in that caſe, and in all others not herein ſpecially provided for, where the recovery ſhall be in damages, a writ of enquiry ſhall be executed at the next ſucceeding term: *Provided,* That where the tenure of the action requires ſpecial pleading, the time for pleading may be enlarged.

Where the defendant pleads ſpecially, the plaintiff ſhall reply or demur within three days after the time allowed for filing the declaration, or a non pros may be entered by the defendant; and if the plaintiff replies, and in his replication tenders an iſſue, the defendant ſhall join iſſue, or demur in three days, otherwiſe the plaintiff may have judgment; and where the defendant rejoins to the plaintiff's replication, he ſhall file his rejoinder within three days, or judgment ſhall go againſt him, unleſs the time for pleading ſhall be enlarged as aforeſaid; and the ſame time ſhall be given, and rules obſerved through the whole courſe of the proceedings.

Where a ſpecial verdict ſhall be found, a caſe agreed, a demurer filed, or a bill of exceptions to the evidence tendered, time ſhall be allowed, upon motion of either party, to the next term to argue the ſame.

For the better preſervation of the records of the court; when any cauſe is finally determined, the clerk of each court ſhall enter all the proceediug therein in a book well bound, and an entire and perfect record make thereof.

All jury cauſes ſhall be firſt tried.

All motions in arreſt of judgment ſhall be argued within the three laſt days of the term in which the iſſue ſhall be tried, the defendant's attorney firſt ſerving the plaintiff's attorney with a copy of the reaſons in arreſt of judgment, the day immediately following that on which ſuch motion ſhall be made.

Arguments on writs of error, ſpecial verdicts, caſes agreed, demurers, petitions for legacies, and diſtributions of inteſtates' eſtates, ſhall be heard upon the four laſt days of the term.

No plea in abatement ſhall be received in any of the ſaid courts, unleſs the party offering the ſame ſhall by affidavit or otherwiſe prove the truth of ſuch plea.

Where a plea in abatement ſhall be pleaded, and upon argument the ſame ſhall be adjudged inſufficient, the plaintiff ſhall recover againſt the defendant full coſts to the time of over-ruling ſuch plea, including the coſts of court; and the plaintiff in replevin, or defendant in any other action, may plead as many ſeveral matters as may be neceſſary for his defence, ſo that he be not admitted to plead and demur to the whole.

27. *And be it enacted,* That all the ſtatutes of England and Great Britain, for the amendment of the law, commonly called ſtatutes of jeoffails, and which were heretofore enforced in this government by any act or acts of the general aſſembly under the late government, are hereby declared to have continued, and to be now in full force in this government, and ſhall

be duly obſerved by all judges and juſtices of the ſeveral courts of record within the ſame, according to the true intent and meaning of the ſaid ſtatutes, unleſs where the ſame are or may be altered by this or any other act.

28. *And be it further enacted*, That for taking the teſtimony of witneſſes, in all cauſes which may be depending in the ſuperior and county courts, the following rules ſhall be obſerved and put in practice, viz:

In all ſuits where witneſſes are to appear at any of the ſaid courts, the clerk, at the requeſt of the party, ſhall iſſue a ſubpœna, directed to the ſheriff or other officer of the county, where the witneſs or witneſſes are ſaid to reſide, mentioning the time and place for his, her or their appearance, the names of the parties to the ſuit wherein the teſtimony is to be given, and the party at whoſe inſtance ſuch witneſs or witneſſes is or are ſummoned.

Every ſubpœna, made returnable immediately, ſhall be iſſued only in term time, and ſhall be perſonally ſerved on the witneſs or witneſſes therein named.

A copy of every ſubpœna iſſued by the clerk in the vacation, in caſe the witneſs or witneſſes therein named is or are not to be found, may be left at their uſual places of reſidence; and ſuch copy certified by the ſheriff or other officer, left as aforeſaid ſhall be deemed a legal ſummons, and the perſon or perſons therein named ſhall be bound to appear in the ſame manner as if perſonally ſummoned.

29. *Be it enacted*, That every witneſs being ſummoned to appear in any of the ſaid courts, in manner as herein before directed, ſhall appear accordingly, and continue to attend from term to term, until diſcharged by the court, or the party at whoſe inſtance ſuch witneſs ſhall be ſummoned; and in default thereof ſhall forfeit and pay to the party at whoſe inſtance the ſubpœna iſſued, the ſum of one hundred and twenty five dollars; and ſhall be further liable to the action of ſuch party for the full damages which may be ſuſtained for want of ſuch witneſs's teſtimony, who ſhall recover the ſame by ſcire facias, with coſts. *Provided always*, That if it ſhall ſo happen that the ſuit depending ſhall in the vacation be accommodated and ſettled between the parties, and the party at whoſe inſtance ſuch witneſs was ſummoned, ſhould neglect or omit to diſcharge him or her from further attendance, and he or ſhe, for want of ſuch diſcharge, ſhould attend at the next term, then and in that caſe the witneſs, upon oath made of the facts, ſhall be entitled to a ticket from the clerk in the ſame manner as other witneſſes, and ſhall recover from the party at whoſe inſtance he was ſummoned, the ſame allowance which by this act is given to witneſſes for their attendance at the ſaid court with coſts. *Provided alſo*, That if any witneſs ſhall hereafter ſwear falſely, in order to obtain a ticket, he ſhall upon conviction be adjudged guilty of perjury, and ſuffer as in caſes of corrupt and wilful perjury. *And provided further*, That if ſufficient cauſe be ſhewn by the perſon ſo ſummoned and failing to appear, of his or her incapacity to attend at the time and place mentioned in the ſubpœna, then no forfeiture or penalty ſhall be incurred

by ſuch failure; but if on notice given by the court, ſufficient cauſe be not ſhewn at the next ſucceeding term after ſuch failure, it ſhall and may be lawful for ſuch court, on motion, to grant judgment and award execution for the forfeiture before mentioned, againſt the perſon ſo ſummoned and failing to appear as aforeſaid.

30. *And be it enacted,* That when any perſon who may be a witneſs in any cauſe in any of the ſaid courts, ſhall reſide out of this territory, or ſhall by reaſon of age, bodily infirmity, or any other cauſe, be incapable of attending to give his teſtimony in court, oath thereof being made, or the truth of the matter otherwiſe appearing, the judge or judges of the court wherein ſuch ſuit is depending, ſhall and may, by commiſſion, empower ſuch and ſo many perſons as may be thought neceſſary to take and receive the depoſition of ſuch witneſs; which being duly taken and returned as hereinafter is directed, ſhall be received as legal teſtimony—*Provided always,* That the party praying ſuch commiſſion, ſhall give ſuch notice to the adverſe party of the time and place when and where ſuch commiſſion is to be executed, as the court ſhall think proper; and the adverſe party ſhall have power to croſs examine any witneſs whoſe depoſition ſhall be ſo taken: And all depoſitions otherwiſe taken than as herein is directed, unleſs by conſent of parties, ſhall be void to all intents and purpoſes.

31. *And be it enacted,* That if any perſon, who may be a witneſs in any cauſe depending in any of the ſaid courts, ſhall be under the neceſſity of leaving this government before ſuch cauſe is to be tried, or even before ſuch cauſe ſhall be at iſſue, upon oath thereof made before any of the juſtices of ſaid courts, ſuch juſtice is hereby empowered to order the clerk of the court where ſuch cauſe is depending, to iſſue a commiſſion to one or more perſons to take the depoſition of ſuch witneſs, notice being firſt given to the adverſe party of the time and place when and where ſuch depoſition is to be taken, at leaſt ten days previous to the time of executing ſuch commiſſion: Which depoſition, when returned, taken in manner aforeſaid, ſhall be received as legal evidence.

32. *And be it enacted,* That if any perſon, who ſhall be ſummoned as a witneſs in any of the ſaid courts, or before any perſon appointed to take depoſitions as aforeſaid, ſhall refuſe to give teſtimony on oath, ſuch perſon ſo refuſing, ſhall by the court, or by the commiſſioner before whom he ſhall be ſummoned, be committed to the common priſon, there to remain without bail or mainprize, until he ſhall be willing to give teſtimony in ſuch manner as the law doth or may direct—*Provided,* The people called quakers ſhall have the liberty of giving their teſtimony by way of ſolemn affirmation, in all cauſes whatſoever, criminal as well as civil—*And provided alſo,* That all negroes, indians, mulattoes, and all perſons of mixed blood, deſcending from negro and indian anceſtors, to the third generation incluſive (though one anceſtor of each generation may have been a white perſon) whether bond or free, ſhall be taken and deemed to be incapable in law to be witneſſes in any caſe whatever, except againſt each other. *And provided further,*

That no perſon of mixed blood in any degree whatſoever, who has been liberated within twelve months previouſly, ſhall be admitted as a witneſs againſt a white perſon.

33. *Be it enacted,* That every witneſs being ſummoned to appear in any of the ſaid courts on a criminal proſecution or plea of the government, ſhall appear accordingly, and continue to attend from day to day until diſcharged by the court, the attorney for the government, or the party at whoſe inſtance he ſhall be ſummoned; and in default thereof ſhall forfeit and pay the ſum of two hundred and fifty dollars, for the uſe of the government, unleſs upon notice iſſued and made known, ſufficient cauſe be ſhewn for ſuch failure, at the next ſucceeding term.

34. *And be it enacted,* That during the attendance of any perſon ſummoned as a witneſs to any court whatſoever, and during the time that ſuch perſon is going to and returning from the place of ſuch attendance, allowing one day for every twenty five miles ſuch witneſs hath to travel to and from his place of reſidence, no ſheriff or other officer ſhall ſerve or execute on any perſon ſo attending, going to, or returning from ſuch court, any writ or proceſs, warrant, order, judgment or decree in any cauſe, (ſummons for witneſſes excepted) and if any ſuch ſhall be executed, the ſame ſhall be, and is hereby declared null and void.

35. *And be it enacted,* That each perſon who ſhall attend any of the ſaid ſuperior courts as a witneſs, ſhall be allowed for each and every day's attendance, and for every thirty miles he or ſhe ſhall travel going to and returning from the ſaid court the ſum of one dollar—And that each perſon who ſhall attend any county court, ſhall be allowed for each and every day's attendance, fifty cents, and for every thirty miles he or ſhe ſhall travel going to and returning from the ſaid court the ſum of one dollar—*Provided,* this allowance for milage ſhall not be made to perſons attending as witneſſes in the county in which they reſide.

36. *And be it enacted,* That the clerks of the ſaid courts are hereby empowered and directed to take probate of all evidence tickets, and certify the ſame.

37. *And be it enacted,* That the ſaid courts ſhall have power and authority to grant writs of error, for correcting the errors of any inferior courts; and the party praying ſuch writ before the ſame ſhall iſſue, ſhall aſſign error, and give bond and ſecurity to the ſatisfaction of the court, to abide by, perform, and fulfil, the judgment which ſhall be given thereon by ſuch court; and if upon argument of any writ of error, or trial of any appeal from an inferior court the judgment or decree of the inferior court ſhall be reverſed, the ſuperior court ſhall grant judgment, or make ſuch decree thereupon as ſhould have been made up or entered in ſuch inferior court, and ſhall and may iſſue execution thereupon, without granting a writ of procedendo; and to prevent the obtaining of writs of error by ſurprize, the party paying ſuch writ in a civil cauſe, ſhall give notice in writing to the adverſe party, at leaſt ten days before motion, of his intention to move for ſuch writ; and no ſuch writ ſhall be granted without affidavit of ſuch notice.

38. *And be it enacted*, That the governor or commander in chief, for the time being, by and with the advice of any two of the legiſlative council, is hereby empowered and required as often as it ſhall be found neceſſary, to iſſue a commiſſion to the juſtices of the ſuperior courts of this territory, empowering them or any of them to hold a court of ſeſſions of the peace, Oyer and Terminer, for the trial of ſuch offenders, and to hear, try and determine all crimes, and miſdemeanors, of what nature or kind ſoever, wherewith such offenders, or any of them ſhall ſtand charged and to give judgment and award execution thereon.

39. *And be it enacted*, That courts of pleas and quarter ſeſſions ſhall continue to be held as heretofore, in each and every county in this territory.

40. *And be it enacted*, That the time elapſed from the ſixth day of March, 1773, until the 24th day of December, 1777, ſhall not be allowed of in any plea of limitation, or in the computation of time allowed for proving accounts under the act for aſcertaining the method of proving book debts.

41. *And be it enacted*, That every perſon who ſhall be appointed a juſtice of the peace, and juſtice of any county court, before entering upon and executing the ſaid offices, ſhall publicly take the oath to ſupport the conſtitution of the United States, and the following oath to wit: "I A. B. do ſolemnly ſwear, that as a juſtice of the peace, and a juſtice of the county court of pleas and quarter ſeſſions, in the county of——— in all things I will do equal right to the poor and to the rich to beſt of my judgment, and according to the laws of the territory: I will not privately or openly, by myſelf or any other perſon, be of counſel in any quarrel or ſuit depending before me; and I will hold the county court and quarter ſeſſions of my county, as the ſtatutes in that caſe ſhall and may direct.—The fines and amerciaments that ſhall happen to be made, and the forfeitures that ſhall be incurred, I will cauſe to be duly entered without concealment: I will not wittingly or willingly take myſelf, or any other perſon for me, any fee, gift, gratuity or reward whatſoever, for any matter or thing by me to be done, by virtue of my office, except ſuch fees as are, or may be directed and limited by law; but well and truly, I will do my office of a juſtice of the peace, as well within the county court of pleas and quarter ſeſſions as without: I will not delay any perſon of common right by reaſon of any letter or order from any perſon or perſons in authority to me directed, or for any other cauſe whatſoever; and if any letter or order come to me contrary to law, I will proceed to enforce the law, ſuch letter or order notwithſtanding. I will not direct, or cauſe to be directed, any warrant by me to be made to the parties; but will direct all such warrants to the ſheriff or conſtables of the county, or other officers of the territory, or other indifferent perſons to do execution thereof; and finally in all things belonging to my office during my continuance therein, I will faithfully, truly, and juſtly, according to the beſt of my ſkill and judgment, do equal and impartial juſtice to the public and to individuals. So help me God."

And if any perſon who ſhall be appointed as a juſtice of the peace, ſhall preſume to execute the office of a juſtice of the peace, or the office of a juſtice of any county court, without firſt qualifying himſelf in the manner by this act required, he ſhall forfeit and pay the ſum of two hundred and fifty dollars, one moiety thereof to the territory, towards the ſupport of government, and the other moiety to him or them who will sue for the same, to be recovered with coſts, by action of debt, in any court where the ſame may be cognizable.

42. *And be it enacted*, That if the buſineſs of any of the ſaid courts cannot be determined on the day of the term, the juſtices may adjourn from day to day not exceeding ſix days at the end of which time the causes and matters which may be depending before them, and not then finally determined, ſhall be continued to the next succeeding term.

43. *And be it enacted*, That if by reason of indiſpoſition or other inability, bad weather, or other accidents, it ſhall so happen that a sufficient number of juſtices ſhall not meet for holding the ſaid courts, or any of them, on the days by this act appointed, in such caſe it ſhall and may be lawful for any one juſtice to adjourn the court whereof he ſhall be a member, from day to day, not exceeding three days until a sufficient number of juſtices ſhall attend to hold the court.

44. *And be it enacted*, That none of the ſaid county courts, nor any proceſs in any of them depending, ſhall be diſcontinued for or by reason of the juſtices failing to hold court upon the day by law appointed, or of any alteration of any of the days appointed for holding the ſaid courts; but in every such caſe, all ſuch proceſs, matters and things depending, ſhall ſtand continued; and all appearances upon returns of proceſs ſhall be made to the next ſucceeding term in courſe, in the ſame manner as if such succeeding term had been the same term to which ſuch process had ſtood continued, or such returns for appearances had been made; and all recognizances, bonds and obligations for appearances, and all returns ſhall be of the ſame force and validity for the appearance of any perſon or perſons at ſuch ſucceeding term, and all ſummonſes for witneſses as effectual as if the next ſucceeding term had been expreſsly mentioned therein.

45. *And be it enacted*, That the juſtices of the county courts of pleas and quarter ſeſſions, or any three or more of them, ſhall and may take cognizance of, and are hereby declared to have full power, authority and juriſdiction as heretofore, to hear, try and determine all causes at law, within their reſpective counties where the debt, damages or cauſe of action exceeds *fifty dollars*; and ſhall have, hold and exerciſe juriſdiction in all actions of treſpaſs in ejectment, formedon in descender, remainder and reverter, dower and partition, and of treſpaſs quare clauſum fregit and all petit larcenies, aſſaults, batteries and treſpaſſes, breaches of the peace, and other misdemeanors of what kind soever, of an inferior nature, and all actions of detinue, trover, and on penal ſtatutes, ſuits for filial portions, legacies and diſtributive ſhares of inteſtates' eſtates, and all other matters relating thereto; and ſhall alſo have

power to remit or mitigate all fines by them inflicted, and all forfeitures on recognizances, previous to entering final judgment thereon. *Provided,* That if any perſon or perſons ſhall be diſſatisfied with the judgment or decree of any county court entering final judgment againſt him or them, on forfeited recognizances, he or they ſhall be entitled to an appeal to the ſuperior court of the diſtrict, under the ſame rules and regulations of other appeals which ſuperior court is hereby authoriſed to determine on the premiſes as in other caſes in this act directed.—*Provided always,* That nothing contained in this act ſhall be conſtrued to debar the county ſolicitor, or attorney for the government, from appealing from any judgment given wherever he ſhall conceive the government has been injured; but that in all ſuch determinations he is hereby expreſsly required to pray an appeal, which the ſaid court ſhall grant accordingly.

46. *And be it enacted,* That it ſhall and may be lawful for every county court within this territory, where any idiots or lunatics ſhall be within the juriſdiction thereof, to appoint them or either of them, a guardian taking bond with approved ſecurity, for the faithful adminiſtration of the truſt repoſed in ſuch guardian, in the ſame manner as bonds are taken from the guardians of orphans; and ſuch guardians, when ſo appointed, ſhall continue during the pleaſure of the court, and ſhall have the ſame power, to all intents, conſtructions and purpoſes, and ſhall be ſubject to the ſume rules, orders and reſtrictions as guardians of orphans appointed by the court: ſuch idiotcy or lunacy to be aſcertained by the inquiſition of a jury, by virtue of a writ to be iſſued by the court, to the ſheriff of the county, for that purpoſe.

47. *And be it enacted,* That the ſaid courts of pleas and quarter ſeſſions, ſhall and may, within their reſpective counties, take the probate of wills, and order the ſame to be recorded in proper books to be kept for that purpoſe; and the ſaid courts ſhall and may make orders for iſſuing letters teſtamentary, and letters of adminiſtration, which letters ſhall be ſigned and iſſued by the clerk of the ſaid court; and may by ſummons, upon application to them made, compel any perſon or perſons whatſoever, within their reſpective counties, having in their poſſeſſion any will or teſtament of any deceaſed perſon, to exhibit the ſame to the court for legal probate thereof; and whoever being legally ſummoned, ſhall in contempt of the court, refuſe to produce any ſuch will in his or her poſſeſſion, or having been in his or her poſſeſſion ſhall refuſe to inform the court, on oath where ſuch will then is, or in what manner he or ſhe hath diſpoſed of the ſame, ſuch perſon ſhall, by order of the court, be committed to the common priſon of the county, there to remain without bail or main prize, until ſuch will ſhall be produced, and due ſubmiſſion made to the court for the contempt; and the court ſhall, and is hereby empowered, in caſe of ſuch perſon's removal, to iſſue ſuch ſummons and proceſs for commitment into any county in the territory.

48. *And be it enacted,* That if any perſon, who ſhall claim a right to execute any will, or to adminiſter the eſtate of any in-

teſtate, and ſhall think himſelf injured by order of court, for letters teſtamentary or of adminiſtration, he ſhall be entitled to an appeal to the ſuperior court of the diſtrict where ſuch order ſhall be made, ſubject to the ſame regulations as in other caſes of appeal ; and ſuch ſuperior court is hereby declared to have cognizance thereof, and ſhall at their ſitting next ſucceeding ſuch appeal, determine the ſame ; and upon ſuch determination had, ſuch court ſhall proceed to grant the letters to the perſons entitled to the ſame he or ſhe giving bond with ſufficient ſecurity, for the faithful diſcharge of the truſt.

49. And for the better preſervation of wills and other papers relating to the eſtates of deceaſed perſons, *Be it enacted*, That all original wills, inventories and accounts of executors and adminiſtrators, ſhall remain in the clerk's office among the records of the reſpective counties where the ſame ſhall be proved or exhibited ; and to the ſaid wills, inventories and accounts any perſon may have acceſs as to the other records, except for the time they ſhall or may be removed before any other court, upon the determination of any controverſy.

50. *And be it enacted*, That there ſhall be a clerk to each of the ſaid cnunty courts of pleas and quarter ſeſſions, who ſhall each give bond with ſufficient ſecurity, in the ſum of five thouſand dollars, payable to the governor or his ſucceſſor in office, for the ſafe keeping of the records, and the faithful diſcharge of the duties of his office, which ſaid bond ſhall be lodged in the ſecretary's office, and may be aſſigned, and put in ſuit, and recovery had in the ſame manner, and according to the rules and reſtrictions as herein before preſcribed for ſuits on bonds given by clerks of the ſuperior courts ; and each of the ſaid county court clerks ſhall take an oath to ſupport the conſtitution of the United States, and the oath of office, herein directed to be taken by the clerk of the ſuperior courts, and be ſubject to ſimilar pains and penalties for ſimilar offences.

51. *And be it enacted*, That there ſhall be appointed for each county, an attorney or ſolicitor, properly qualified to act for and in behalf of the government, whoſe duty it ſhall be to proſecute all matters cognizable in the county courts of pleas and quarter ſeſſions, wherein he ſhall be appointed, for and in behalf of the government.

52. *And be it enacted*, That any one juſtice of the peace, who may give judgment, may thereupon award execution againſt the goods and chattels, or body of the debtor, which ſhall be executed and returned by the ſheriff, conſtable or other officer to whom the ſame may be directed, in the ſame manner as other writs of fieri facias or capias ad ſatisfaciendum are to be executed and returned.

53. *And be it enacted*, That where a witneſs lives in another county within this territory, in trials before a ſingle juſtice, ſuch juſtice may iſſue a dedimus poteſtatem to any juſtice of the county wherein the witneſs reſides, who ſhall take the depoſition of ſuch witneſs in the manner preſcribed, where depoſitions have been heretofore given by county courts ; and the depoſitions ſo taken and returned to the juſtice who granted

the dedimus poteſtatem ſhall by him be received as ſufficient evidence in the caſe for which it was granted.

54. *And be it enacted*, That if either party on a trial before a juſtice of the peace, ſhall be diſſatisfied with the judgment of ſuch juſtice, ſuch party may appeal to the next county court of pleas and quarter ſeſſions, firſt giving ſecurity for proſecuting ſuch appeal with effect, which ſaid appeal ſhall be tried and determined at the firſt court, by a jury of good and lawful men, and determination thereon ſhall be final: *Provided*, That the cauſe ſhall be tried by, and the appeal made from ſuch juſtice, five days at leaſt, before the term to which the appeal ſhall be made, otherwiſe the cauſe ſhall be continued to the next ſucceeding term. *And provided further*, That the juſtice or juſtices before whom the ſuit was firſt heard, ſhall at the requeſt of the reſpective parties, ſummon ſuch witneſſes to court as they ſhall name; but ſhall not ſit in court, or give judgment on the appeal.

55. *And be it enacted*, That every juſtice of the county courts ſhall have power, and they are hereby authoriſed and required, upon any complaint being made by any perſon or perſons, for any debt or damage, matter or thing, cognizable in the county courts of pleas and quarter ſeſſions of this territory, to grant an original attachment againſt the eſtate of any perſon abſconding, or concealing himſelf, or removing out of the county privately, returnable to the court of ſuch county, obſerving therein the rules and reſtrictions directed for granting original attachments in the ſuperior courts; and all ſheriffs and coroners ſhall execute and return the ſame, and obſerve the rules and directions appointed to be obſerved in executing attachments returnable to the ſuperior courts; and the like judgment, recovery, remedy, relief, and proceedings ſhall be had thereupon, as in like caſes are grantable in the ſaid ſuperior courts.

56. *And be it enacted*, That any one juſtice of the peace, in caſes where, by this act, he has juriſdiction, may iſſue an original attachment againſt the eſtate of any abſconding or abſent debtor, upon the oath of the plaintiff, his agent or attorney, directed to the ſheriff or any conſtable of the county, firſt taking ſufficient ſecurity, as in other caſes of attachments; and the proceedings thereon ſhall be in a ſummary way, in the ſame manner as on a warrant, and the defendant may replevy the goods attached, and either party may appeal from the judgment of the juſtice, in manner as herein before directed.

57. *And be it enacted*, That all original proceſs, and all ſubſequent proceſs thereupon, to bring any perſon or perſons to anſwer to any action, ſuit, bill or plaint, in any county court of pleas and quarter ſeſſions, (except ſupœnas for witneſſes, which in term time may be made returnable immediately) ſhall be iſſued by the clerk of ſuch court, and ſhall be returnable to the firſt day of the term, and ſhall be executed at leaſt five days before the return thereof. And if any perſon takes out any writ or proceſs, while ſuch court is ſitting, or within five days before the beginning of the term, ſuch writ or proceſs ſhall be made returnable to the term next after that then held, or to

be held, within five days as aforeſaid, and not otherwiſe; and all writs and proceſs iſſued, made returnable or executed in any other manner, or at any other time than is herein before directed, may be abated upon the plea of the defendant: *Provided always*, That nothing herein contained ſhall extend, or be conſtrued to extend, to invalidate or vacate any writ, proceſs, warrant or precept iſſued by a juſtice, or other officer, having juriſdiction thereof, on any criminal proſecution, or in behalf of the government; but the ſame may be made returnable to any day in the term; and the proceedings in all criminal caſes ſhall be had according to the laws and ſtatutes of this government, and in the mode heretofore practiſed within the limits thereof, under the laws formerly in uſe therein.

58. *And be it enacted*, That when any writ or proceſs ſhall iſſue to take the body or bodies of any perſon or perſons, to anſwer to any plaintiff in any civil action in any county court of pleas and quarter ſeſſions, the ſheriff ſhall return therewith a bail bond, with two ſufficient ſecurities, for double the ſum for which the perſon or perſons ſhall be held in arreſt (executors and adminiſtrators, and perſons ſued, on ſuch penal ſtatutes as do not expreſsly require bail, excepted) to the clerk, on or before the firſt day of every term; and if the ſheriff ſhall not return bail, or the bail returned be held inſufficient, upon exception taken thereto and entered on the docket the ſame term to which the writ ſhall be returnable, and notice given that term to the ſheriff to juſtify, then and in ſuch caſe the ſheriff ſhall be held and ſtand as ſpecial bail for the defendant, and the plaintiff may proceed to judgment according to the rules hereinafter mentioned; and the plaintiff, on recovery, may take out execution againſt the defendant or ſheriff, or both, any law, uſage or cuſtom to the contrary notwithſtanding—*Provided always*, That if the defendant puts in bail, before the time to plead, by the rules hereinafter mentioned is expired, then the ſheriff ſhall be diſcharged—*Provided also*, That the ſheriff may ſurrender the defendant in diſcharge of himſelf, at any time before final judgment obtained againſt the ſaid bail.

59. *And be it enacted*, That where any judgment or decree ſhall be obtained in any county court of pleas and quarter ſeſſions, for any debt, damages, portion, legacy, or diſtributive ſhare of an inteſtate's eſtate, and the perſon againſt whom ſuch judgment or decree ſhall be obtained, ſhall remove him or herſelf and effects, or ſhall reſide out of the limits of the juriſdiction of ſuch court, it ſhall be lawful for the clerk of the court where ſuch judgment ſhall be given, or decree made, at the requeſt of the plaintiff, to iſſue execution to any county of this government, where the defendant or his goods may be found; and the ſheriff or other officer to whom the ſame may be directed, is hereby empowered and required to execute the ſame, and make return thereof in the ſame manner as is directed for proceſs iſſuing from the ſuperior courts. And for the better aſcertaining what proceſs may be iſſued, where the ſheriff ſhall return that the defendant is not to be found in his county, *It is hereby enacted*, That when any ſheriff ſhall make ſuch return, the plaintiff in any civil action may take out an attach-

ment againſt the eſtate of ſuch defendant, returnable as is herein before directed for the return of other proceſs, thereupon to enforce an appearance, or an alias or pluries capias, until ſuch defendant be arreſted, at the election of the plaintiff; and if the ſheriff ſhall return ſuch attachment executed, the plaintiff ſhall file his declaration according to the rules of the court, and proceed as in other caſes.

60. *And be it enacted*, That the ſame rules, method, and proceedings ſhall be had, kept, and obſerved, by the ſaid county courts of pleas and quarter ſeſſions, and the officers thereof, in granting, iſſuing, executing and returning proceſs, and awarding judgment on judicial attachments, and the like remedy, recovery, and relief againſt the ſheriff and bail, as in like caſes are provided by law in ſuits depending, or to be commenced in the ſuperior courts of law.

61. And for the regular proſecution and determination of ſuits, entering up judgments, and preſervation of the records in the ſaid county courts of pleas and quarter ſeſſions, *Be it enacted*, That the following rules and method ſhall be obſerved, to wit:

The plaintiff in every ſuit ſhall file his declaration within the three firſt days of the term, or firſt calling of the cauſe in court.

If the plaintiff fails to file his declaration, or to appear and proſecute his ſuit, the defendant may enter a non proſs.

The defendant ſhall enter his appearance, and file his plea in writing, whether general or ſpecial, the firſt term; and if he fails ſo to do, the plaintiff ſhall have judgment, which in actions of debt ſhall be final, except where damages are ſuggeſted on the roll, in which caſe, and in all others, where the plaintiff is to recover in damages, a writ of enquiry ſhall be executed the next ſucceeding term.

The defendant may plead as many ſeveral matters as he may think neceſſary, ſo that he be not admitted to plead and demur to the whole.

All iſſues, whether general or ſpecial ſhall be heard and tried the next ſucceeding term after the iſſue ſhall be made up, unleſs ſufficient cauſe be ſhewn to the court why ſuch cauſe ſhall be continued.

All jury cauſes at iſſue ſhall be firſt heard and tried. Every motion in arreſt of judgment ſhall be argued the laſt day of the term in which the iſſue ſhall be tried, the defendant's attorney firſt ſerving the plaintiff's attorney with a copy of the reaſons in arreſt of judgment unleſs, upon ſufficient reaſon ſhewn and approved of by the court, further time ſhall be allowed.

When a ſpecial verdict ſhall be found, a caſe agreed, a demurer filed, or a bill of exceptions to evidence tendered, time ſhall be allowed at the motion of either party, to the next ſucceeding term.

62. *And be it enacted*, That it ſhall not be lawful for any court to grant a continuance of any cauſe therein depending, but by conſent of both parties, or on cauſe ſhewn by affidavit filed,

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which cauſe ſhall be held ſufficient in law for the ſaid continuance.

And for prevention of vexation, by dilatory pleas. *It is hereby enacted*, That no plea in abatement ſhall be received in any action or ſuit, in ſaid county courts, unleſs the truth thereof be ſufficiently ſhewn to the court, by affidavit or otherwiſe. And in all actions where the declaration ſhall plainly ſet forth ſufficient matter of ſubſtance for the court to proceed upon the merits of the cauſe, the ſuit ſhall not abate for want of form in the proceedings; and when any plea ſhall be pleaded in any action, and upon argument thereof, the ſame ſhall be adjudged inſufficient to abate ſuch action, the plaintiff ſhall recover againſt the defendant full coſts to the time of over ruling ſuch plea, including the coſts of court.

63. *And be it enacted*, That when any perſon or perſons, either plaintiff or defendant, ſhall be diſſatiſfied with the ſentence, judgment, or decree of any county court, he may pray an appeal from ſuch ſentence, judgment, or decree, to the ſuperior court of law of the diſtrict wherein ſuch county court ſhall be; but before obtaining the ſame, ſhall enter into bond with two ſufficient ſecurities, for proſecuting the ſame with effect, and for performing the judgment, ſentence, or decree which the ſuperior court ſhall paſs or make thereon, in caſe ſuch appellant ſhall have the cauſe decided againſt him—*Provided nevertheless*, That before the granting any appeal whatever, the attorney praying the ſame, ſhall certify to the court in writing, reaſons for his motion, with his opinion that the ſame are good and ſufficient in law why ſuch appeal ought to be granted which certificate aforeſaid, ſigned with the name of the ſaid attorney, ſhall make part of the record, and be tranſmitted, with the other tranſcript of the cauſe, to the ſuperior court aforeſaid.

64. And whereas, from the manner in which appeals from the county courts of pleas and quarter ſeſſions have been heretofore obtained, in numerous inſtances frequent injuſtice has happened to many juſt ſuitors, from the delay incident to the ſaid appeals; for remedy whereof, *Be it enacted*, That when any appeal prayed ſhall not be proſecuted, or the court before whom ſuch appeal may be determined, ſhall affirm the judgment, then ſhall the appellant be decreed to pay the appellee twelve and a half per cent intereſt, from the paſſing of the judgment in the county court, by which ſuch appeal may have been granted; and the bonds taken for proſecution of appeals with effect ſhall hereafter make a part of the records ſent up to the ſuperior court, on which judgment may be inſtanter entered up againſt the appellant and his ſecurities; and no appeal in any cauſe or court whatſoever, ſhall be abated by the death of either plaintiff or defendant, but may be proceeded on by application of the heirs, executors, adminiſtrators, or aſſigns of either.

65. And becauſe it may happen, that in iſſuing proceſs, carrying on the proceedings, and rendering judgments in the ſaid county courts, there may be error to reverſe judgment, *Be it enacted*, That when any perſon ſhall be deſirous to proſecute a

writ of error, he ſhall move the county court of pleas and quarter ſeſſions, where ſuch ſuit is or hath been depending, to allow a writ of error, he firſt entering into bond and ſecurity to the ſatisfaction of the court, to abide by, perform, and fulfil the judgment which ſhall be given thereon by ſuch court; and the court is hereby empowered and required to allow thereof, as if ſuch writ of error ſhould be then and there produced from the ſuperior court.

66. And for proſecuting appeals, *Be it enacted*, That when any perſon ſhall have appealed to the ſuperior court in manner above directed, a tranſcript of the record of the ſuit on which the appeal ſhall be made, ſhall be delivered to the clerk of the ſuperior court at leaſt fifteen days before the ſitting of the term, and ſhall by him be filed the ſame day on which he receives the ſame; and if the trial of the county court was of an iſſue to the country, a trial de novo ſhall be had. And if on a hearing on a petition for a filial portion or a legacy, or diſtributive ſhare of an inteſtate's eſtate, or other matter relating thereto, a re-hearing at the ſuperior court, without notice given by either party, and if ſuch tranſcript of the record is not filed within the time aforeſaid, or if the appellant ſhall fail to appear, or to proſecute his appeal, then the judgment, ſentence or decree of the county court ſhall be affirmed.

67. And for proſecuting writs of error, *Be it enacted*, That the following method of practice ſhall be obſerved: A tranſcript of the records and proceedings in the county court, in the ſuit in which any writ of error ſhall be granted or allowed ſhall be tranſmitted and delivered to the clerk of the ſuperior court, at leaſt fifteen days before the ſiting of the term. And in caſe the plaintiff in error ſhall neglect to file ſuch writ, and aſſign error as aforeſaid, or ſhall fail to appear, or to proſecute the ſame then the judgment of the county court ſhall be affirmed. *Provided always*, That if it ſhall ſo happen, that there ſhall not be thirty days between the laſt day of the term or hearing in the county court, and the next term of the ſuperior court, to which ſuch appeal ſhall be made or writ of error allowed, then ſuch appeal or writ of error ſhall be continued, and a tranſcript of the records & proceedings ſhall be tranſmitted and filed in like manner in the office of the ſuperior court, the term ſucceeding that which ſhall immediately follow ſuch county court term, in which ſuch trial and hearing ſhall be had as aforeſaid.

68. *And be it enacted*, That in every county court of pleas and quarter ſeſſions within this territory, when any appeal ſhall be granted, or writ of error allowed, the clerk of ſuch court ſhall immediately make up a full and perfect record of all the proceedings in ſuch cauſe; and ſhall, within ten days after the final adjournment of the term in which the cauſe ſhall be heard give an atteſted copy of ſuch record, with a taxation of all coſts accrued, to the appellant or plaintiff in error, if required and ſhall endorſe on ſuch copy the day or days on which the ſame may have been demanded, and the day on which it ſhall be delivered, and ſign his name as clerk thereto. And if by reaſon of the delay of any clerk, any tranſcript ſhall not be filed

in the time, or that the record is ſo erroneouſly or in artificially made up, that the ſuperior court cannot proceed thereon, ſuch clerk, in any of the ſaid caſes, ſhall upon trial, be adjudged guilty of miſbehaviour in office, and ſhall forfeit and pay to the perſon entitled to ſuch atteſted copy, the ſum of one hundred and twenty five dollars, to be recovered by action of debt in any court having cognizance thereof; and ſhall be further liable to an action on the caſe, for all damages which ſuch perſon may ſuſtain for want of ſuch copy. *Provided always*, That if the judge or judges of the ſuperior court ſhall be of opinion that there appears to be ſufficient matter of ſubſtance in the tranſcript of the record and proceedings on any appeal or writ of error to enable them to proceed thereon, the ſame ſhall not be diſmiſſed for want of form, any thing herein contained to the contrary notwithſtanding.

69. *And be it enacted*, That the clerks of the ſuperior courts reſpectively, upon receiving a tranſcript of the record and proceedings in any ſuit, on which an appeal ſhall be made or writ of error allowed, ſhall give a receipt to the perſon delivering the ſame, and ſhall immediately endorſe thereon the day on which it ſhall be delivered; and if he receive it in fifteen days before the ſitting of the term of the then next ſuperior court, he ſhall enter it on the docket of cauſes for trial, and deliver to the parties ſuch ſummonſes for their witneſſes as they may require; but if ſuch tranſcript ſhall be delivered to the clerk of the ſuperior court within fifteen days before the ſitting of ſuch term as aforeſaid then ſuch clerk ſhall enter the cauſe on the reference docket of ſuch court; and if the clerk of any ſuperior court ſhall refuſe, neglect or omit to do any of the duties which he is hereby required to perform, ſuch clerk ſhall, upon trial and conviction be deemed guilty of miſbehaviour in office and ſhall forfeit and pay the appellant or plaintiff in error two hundred and fifty dollars, to be recovered by action of debt, in any court having cognizance thereof and be further liable to an action on the caſe, for all damages which ſuch appellant, or plaintiff in error may ſuſtain by reaſon of ſuch refuſal, neglect or omiſſion.

70. *And be it enacted*, That all fines, amerciaments, forfeitures and recoveries on penal ſtatutes, as are or ſhall be directed to be applied to the uſe of the government, ſhall by the reſpective clerks of the courts of law, be accounted for on oath, and paid to the treaſurer once in every year. And all fines, amerciaments, forfeitures and recoveries, on penal ſtatutes directed to be applied to any other public or county uſe, and to be received by any other perſon or perſons ſhall be accounted for in like manner, and paid to the perſon or perſons to whom the ſame is or may be payable. And if any clerk ſhall fail or neglect to account or pay in manner as by this act is directed, or ſhall conceal any money or monies which are payable as aforeſaid, ſuch failure or neglect ſhall be deemed a miſbehaviour in office.

71. *And be it enacted*, That every perſon accuſed of any crime or miſdemeanor whatſoever, ſhall be entitled to council in all matters which may be neceſſary for his defence, as well to facts

is to law; and every perſon on trial for his life, may make a peremptory challenge of thirty five jurors,

72. *And be it enacted*, That the clerks of the ſuperior courts ſhall keep their offices in the reſpective towns where the ſaid courts are directed to be held; and the clerks of all the ſeveral courts of law ſhall by themſelves or their lawful deputies, give due attendance at their reſpective offices; and all deputies ſhall take the oath appointed for the qualification of public officers, and an oath of office. And in caſe of the death of the clerk of any court, his deputy ſhall hold the office of clerk until he or another ſhall be appointed, and ſhall be entitled to the fees and perquiſites of the office until ſuch appointment.

73. *And be it enacted*, That the time elapſed between the ſixth day of March, one thouſand ſeven hundred and ſeventy three & the 19th day of March, one thouſand ſeven hundred & ſeventy four, & the time between the tenth day of September, one thouſand ſeven hundred and ſeventy five, and the twenty-fourth day of December, one thouſand ſeven hundred and ſeventy ſeven, ſhall not be allowed in the county courts, in any plea of limitation, or in the computation of time allowed for proving accounts, under the act aſcertaining the method of proving book debts.

74. *Be it enacted*, That in all actions whatſoever, the party in whoſe favor judgment ſhall be given, or in caſe of a nonſuit, diſmiſſion or diſcontinuance, the defendant ſhall be entitled to full coſts, unleſs where it is or may be otherwiſe directed by law.

76. And whereas great injuſtice is done to witneſſes appearing in behalf of the government, by their having no allowance for their attendance at the ſuperior and county courts as ſuch, *Be it enacted*, That ſuch witneſſes ſhall be allowed the ſame pay for their duly attending, as is allowed to witneſſes attending upon civil proſecutions; and ſuch fees for attendance ſhall be paid by the defendant, on conviction. And if the government ſhall fail upon the proſecution of any offence of an inferior nature, the court may, at their diſcreſion, order the coſts to be paid by the proſecutor, in caſe ſuch proſecution ſhall appear to have been frivolous or malicious; and in caſe the defendant ſhall not be able to pay coſts, or the court ſhall not think fit to order the proſecutor to pay the ſame, that then, and in that caſe, the clerks of the ſuperior and county courts ſhall grant a certificate of attendance to ſuch witneſſes, in manner as tickets are directed to be granted to witneſſes in civil cauſes; and ſuch tickets may be received by the ſheriffs in payment of public dues.

77. *And be it enacted*, That any act or clauſe of an act prohibiting more than one attorney from pleading in the ſame ſuit in any of the courts of law within this territory, is hereby repealed.

And it is declared, That the true object in paſſing this amendatory act, is that ſuch parts of the act which it amends, not inſerted in this amendatory act, are conſidered as inapplicable to the preſent form of government. *And it is further declared*, That every part of the ſaid act, not inſerted in this amendatory act, is to be conſidered of no force or effect, but repealed, as being inapplicable to our preſent form of government.

And be it further declared, That itis not the intention of the general aſſembly, in this amendatory act, to do away the force and effect of any act bottomed on the act which it amends, except ſuch parts of ſuch acts as are included in this amendatory act; but on the contrary, all acts bottomed on the act which this act is paſſed in amendment to, and not included in this act are declared to be in as full force and effect as if this act had not been paſſed; among which are conſidered, an act giving equity juriſdiction to the ſuperior courts of law; & an act making proceſs in equity effectual againſt perſons who abſcond and who reſide without the limits of this government, and for better regulating the proceedings in courts of equity; excepting only the proviſional clauſe to the ſecond ſection of an act, entitled, "an act for giving equity juriſdiction to the ſuperior courts;" which ſaid proviſional clauſe is expreſſed in the following words: "Provided, that no final decree ſhall be paſſed by any ſuch court, but where two of the judges at leaſt are preſent," be and the ſame is hereby declared to be repealed.

CHAP. V.

An act to authoriſe executors, adminiſtrators and ſheriffs to make conveyances.

1. *Be it enacted by the Governor, legiſlative council and houſe of Repreſentatives of the Territory of the United States of America ſouth of the river Ohio*, That it ſhall be lawful for the executors or adminiſtrators of any perſon or perſons deceaſed, to make titles to any tract or parcel of land in this territory, which the perſon or perſons deceaſed were bound to make, by his, her or their obligation, in as full and ample a manner as the decedant or decedants could have done in his, her or their life time. But the executor or adminiſtrator as the caſe may be, ſhall not be bound to make ſuch title or deed until the bond or obligation of the deceaſed ſhall have been recorded in the county where the land lies, and a copy produced to him or them duly authenticated. Nor ſhall holders of obligations charge the perſonal eſtate of ſuch decedant or decedants, until they ſhall have produced the obligation duly authenticated, and demand made, and refuſal or failure to comply therewith on the part of ſuch repreſentative or repreſentatives.

2. And whereas it may ſo happen that ſuch deceaſed perſon may have contracted with ſuch perſon or perſons as have or may become his or their executor or adminiſtrator, for lands to which he may have failed to make a title, *Be it enacted*, That then, and in that caſe, the county court where ſuch will has been proved, or adminiſtration had, may appoint a guardian or guardians, who ſhall make ſuch executor or adminiſtrator a deed or deeds for ſaid land, according to the true intent and meaning of the contract of ſuch deceaſed perſon.

3. *And be it enacted*, That where there ſhall be more than one executor or adminiſtrator, then, and in that caſe, a deed made by the acting executor or executors, adminiſtrator or ad-

miniſtrators, ſhall be as good and valid in law, as if it were executed by all the executors or adminiſtrators. And in caſe of tenancy in common, the executor or executors, adminiſtrator or adminiſtrators of a joint obligor, together with the ſurviving obligor or obligors, ſhall be competent to make a title, obſerving the directions of this act.

4. *And be it enacted*, That in all caſes of obligations given by deceaſed perſons for a part of any tract of land, not aſcertained by the metes and bounds, it ſhall be lawful for the county court in which the land may be ſituate, upon petition in writing of the holder of ſuch obligation, or the repreſentative or repreſentatives of the obligees, and upon exhibiting ſuch obligation, authenticated as aforeſaid, (and to be made a record of ſuch court) to appoint three diſintereſted freeholders of the county, who, together with the county ſurveyor, or ſuch ſurveyor as the court may appoint, ſhall be authoriſed and directed to divide the tract referred to in ſuch obligation, and lay it off as nearly agreeable to the intention of the contract as poſſible ; which ſaid freeholders and ſurveyor, ſhall, under their hands and ſeals, return a true and correct plat of the land, for which the bond was given, to the next enſuing county court, to be filed of record, with the other papers by the clerk ; and upon exhibiting a copy of ſuch petition, plat, bond, &c. duly certified by the clerk of ſuch court, to the repreſentative or repreſentatives, he, ſhe, or they ſhall be bound to make a title. *Provided always*, That ten days previous notice of the ſurvey be given by the ſheriff to the oppoſite parties ; and that the attending ſurveyor adminiſter to the freeholders, appointed as aforeſaid, the following oath, to wit :

I A. B. do ſwear, that I will well and truly lay off, and aſcertain the boundaries of the land due from the eſtate of C. D. to E. F. by his obligation (or contract as the caſe may be) as referred to me by the order of court, under which I now act.

5. *And be it enacted*, That in caſes where deceaſed perſons have made entries, or hold warrants for lands lying within this territory, and died without making ſurveys ; and the executors or adminiſtrators have employed perſons to ſuperintend the ſurveying ſuch lands, and have by contract obliged themſelves to convey a part of the ſame, it ſhall be lawful for ſuch executors or adminiſtrators, to make a title, purſuant to ſuch contract, which ſhall be as good and valid as if it had been done by the deceaſed.

6. *And be it enacted*, That the ſurveyor and freeholders mentioned in this act, ſhall be allowed the ſame fees with ſurveyors and jurors of view, in caſes of diſputed claims to land. The clerk for recording the proceedings, fifty cents ; for copy thereof, fifty cents ; for recording power of attorney or bond, fifty cents ; for copy thereof, fifty cents ; which ſaid coſts ſhall be paid by the repreſentative or repreſentatives, in caſe of a previous legal demand and refuſal, or wilful failure, otherwiſe by the obligee, or holder of the obligation, agreeable to

the order of court for that purpoſe. And the clerk is by this act authoriſed to iſſue execution for the ſame.

7. *And be it further enacted*, That in all caſes, where judgment and execution are obtained againſt the eſtate of any perſon or perſons whatever, where the real eſtate of the debtor may be charged, it ſhall and may be lawful for the ſheriff to levy execution on any entry or entries, location or locations, held by the debtor or debtors, and ſell the ſame in the ſame manner as lands held by deed or grant. And on ſuch ſales made, purſuant to this act, the mode of conveyance ſhall be by aſſignment of the warrant or warrants, and by transferring the entries and locations by the ſheriff of the county where ſuch lands are ſituated.

CHAP. VII.

An act to repeal an act of the Governor and Judges, paſſed November the twentieth, one thouſand ſeven hundred and ninety two, entitled "an act authoriſing the courts of the ſeveral counties to levy a tax for repairing or building of court houſes, priſons and ſtocks in the ſaid counties reſpectively, and to pay the jurors to the ſuperior courts and defraying the contingent charges of the ſaid counties."

Be it enacted by the Governor, legiſlative council and houſe of repreſentatives of the territory of the United States of America ſouth of the river Ohio, That the act paſſed by the governor and judges, on the twentieth of November, one thouſand ſeven hundred and ninety-two, entitled, "an act authoriſing the courts of the ſeveral counties to levy a tax for repairing or building of court houſes, priſons and ſtocks in the ſaid counties reſpectively, and to pay the jurors to the ſuperior courts, and defraying the contingent charges of the ſaid counties," be, and the ſame is hereby repealed. *Provided*, That all taxes levied by any court of any county, under this act, ſhall be collected, accounted for, and applied in the ſame manner as if this repealing act had never been paſſed.

CHAP. VIII.

An act to alter the times of holding the ſuperior courts of law and equity for the diſtricts of Waſhington, Hamilton and Mero, and the courts of pleas and quarter ſeſſions in the ſeveral counties compoſſing ſaid diſtricts of Waſhington and Hamilton, and the court of pleas and quarter ſeſſions of the county of Tenneſſee; and extending the number of days of each term of the ſuperior courts of law and equity.

Be it enacted by the Governor, legiſlative council and houſe of repreſentatives of the territory of the United States of America ſouth of the river Ohio, That the ſuperior court of law and equity for the diſtrict of Mero, ſhall commence on the ſecond Monday's in May and November in each and every year.

PASSED at the ſecond ſeſſion of the Territorial Aſſembly, begun and held at Knoxville, on Monday the twenty-ninth day of June, one thouſand ſeven hundred and ninety-five.

C H A P. III.

An act pointing out the method of compelling perſons reſiding in this territory, to give evidence in cauſes pending in any of the United States.

WHEREAS much inconvenience has ariſen to individuals, from no compulſory proceſs having been adopted in the different ſtates to oblige the citizens or reſidents thereof to give evidence in ſuits pending in other ſtates; and for remedy, as far as it might be occaſioned by perſons reſiding in this territory:

1. *Be it enacted by the Governor, legiſlative council and houſe of repreſentatives of the territory of the United States of America ſouth of the river Ohio,* That if the teſtimony of any perſons reſiding within this territory ſhall be required in any ſuit pending in any court of record in either of the United States, and he, ſhe or they ſhall be required to appear before commiſſioners legally appointed, to take his or her examination, under a commiſſion properly iſſued and authenticated agreeable to the laws and rules of the courts of the ſtate from which it ſhall be ſent, or appearing ſhall refuſe to anſwer to ſuch legal interrogatories as ſhall be annexed to the ſaid commiſſion, and exhibited to him, her or them, it ſhall be lawful for any of the ſaid commiſſioners, or the party upon whoſe application the ſaid commiſſion was iſſued, to apply to any judge of the ſuperior courts of this territory, or juſtice of the inferior court of the county within which ſuch perſon, whoſe teſtimony is required, may reſide: And upon producing before him ſuch commiſſion, and his being ſatisfied with its regularity, and on affidavit being made of ſuch refuſal, he ſhall iſſue a ſubpœna, in the uſual form, directed to ſuch perſon or perſons as aforeſaid, requiring him, her or them to be and appear before the ſaid commiſſioners at a certain time and place, to anſwer to ſuch legal interrogatories as may be annexed to the ſaid commiſſion, and then exhibited to him, her or them. *Provided,* That he, ſhe or they ſhall not be required to attend ſuch examination, and give anſwers to the ſaid interrogatories within leſs than two days after the ſervice of the ſaid ſubpœna; neither ſhall he, ſhe or they be obliged to attend for ſuch examination out of the county where they reſide. And upon due ſervice of the ſaid ſubpœna upon ſuch perſon or perſons, the ſame ſhall be returned to the commiſſioners on or before the time appointed for the exami-

nation, and the ſervice of ſuch ſubpœna proved by the return of the proper officer; and on the refuſal or neglect of ſuch perſon or perſons to comply with its mandate, endorſed on or annexed to the ſaid ſubpœna, and returned to the ſuperior or inferior courts (as the caſe may be) of the county in which ſuch perſon or perſons reſide, he, ſhe or they ſhall be ſubject for ſuch neglect or refuſal in all the pains and penalties to which ſuch perſon or perſons would have been ſubject for a ſimilar default, in any caſes pending in the courts of this territory.

2. *And be it enacted,* That the perſon or perſons whoſe evidence ſhall be required as aforeſaid ſhall, if they, or any of them require the ſame, be entitled to the ſame fees or pay as perſons ſummoned to give evidence in the ſuperior or inferior courts of this territory.

CHAP. IV.

An act to amend and explain an act of the General Aſſembly, paſſed at Knoxville in September, one thouſand ſeven hundred and ninety-four, entitled, "an act to repeal ſo much of an act requiring perſons holding monies ariſing from fines and forfeitures, impoſed for the puniſhment of public offenders, taxes on proceedings in law and equity, on the probate of deeds, on the regiſtering grants for land, and the iſſuing marriage and ordinary licences, as directed by the laws of North Carolina, to account for and pay the ſame, as lays a tax on marriage licences."

2. *And be it enacted,* That no regiſter in this territory ſhall after the paſſing of this act, admit to regiſtration any original grant, previous to his having received the ſaid tax, under the penalty of fifty dollars, to be recovered by action of debt, before any juriſdiction having cognizance thereof; one third to the uſe of the informer and the other two thirds to the uſe of the county; nor ſhall he be compelled to regiſter any inſtrument of writing until his fees for the ſame ſhall be paid.

CHAP. XI.

An act to repeal ſo much of an act entitled an act to regulate and aſcertain the ſeveral officers fees therein mentioned, paſſed at Knoxville, the 29th day of September, 1794, as reſpects the fees of the clerks and maſters of the courts of equity, and eſtabliſhing other fees in their ſtead.

WHEREAS by the above recited act the fees allowed the clerks and maſters of the courts of equity are inadequate to the ſervices by law required,

1. *Be it enacted by the governor, legislative council, and house of representatives of the territory of the United States of America south of the river Ohio,* That ſo much of the act of the general aſſembly paſſed at Knoxville, the twenty ninth day of September,

one thouſand ſeven hundred and ninety four, entitled, "an act to regulate and aſcertain the ſeveral officers fees therein mentioned," as reſpects the fees in the courts of equity be and is hereby repealed; and that from and after the paſſage of this act, the clerks and maſters of the courts of equity ſhall take and receive the following and no grater fees, for the following ſervice, to wit. For a report on an anſwer, forty cents; on a plea and anſwer, forty cents; on a demurer and anſwer, forty cents; for an affidavit to a bill, or anſwer, twenty five cents; for a ſeparate affidavit, twenty five cents; for a copy by the office copy ſheet twenty five cents; for a report, ſtating an account, one per cent on the amount of each account exhibited, when the amount does not exceed two hundred pounds, and one half percent on all ſums over two hundred pounds; for copies of proceedings and examplifications copy ſheet, twenty five cents; for enrolling bills, or anſwers, by the copy ſheet, twenty five cents; copies of bills or anſwers, by the copy ſheet twenty five cents; for every injunction, one dollar and fifty cents; for every ſubpœna to anſwer writ or other leading proceſs, one dollar and twenty five cents; for every ſcire facias ſeventy five cents; for entering a plea or demurer twenty five cents; for recording depoſitions to perpetuate teſtimony by the copy ſheet twenty five cents; for every rule given for ſervice, twenty five cents; for every rule not for ſervice, fifteen cents; for every dedimus poteſtatem, fifty cents; for commiſſions to take the affidavit of the parties to an anſwer one dollar; for every ſubpœna to cauſe witneſſes to appear before the clerk and maſter to have their depoſition taken each twenty five cents; for every ſuch ſubpœna to appear in court on trial of any iſſue of fact each twenty five cents, for every order of publication iſſued, to be inſerted in any of the gazettes, one dollar, for entering every iſſue of fact impannelling the jury receiving & recording the verdict, and other circumſtances attending the trial by jury one dollar; for each ſecurity taken for proſecution, twenty five cents; for recording proſecution bond, fifteen cents; for iſſuing an order to the ſheriff, or ſubpœna for each ſurveyor or juryman to attend on the primiſes in a diſputed claim of land, twenty five cents; for drawing decrees by the copy ſheet, twenty five cents; for enrolling decrees by the copy ſheet twenty five certs; for drawing deeds of conveyance when decreed for the parties to convey the right, reciting the ſuit, and other circumſtances relative thereto, two dollars; for every notice iſſued, not for publication, twenty five cents; for ſearching the record out of the court twenty five cents; for every diſmiſſion twenty five cents; for every continuance, after the firſt court to which the proceſs is returnable, twenty-five cents.

CHAP. XII.

An act limiting the time of attendance of grand jurors at each and every of the ſuperior courts of law and of the attendance of conſtables at the ſeveral courts of pleas and quarter ſeſſions.

1. *Be it enacted by the governor, legiſlative council and houſe of repreſentatives of the territory of the United States of America ſouth of the river Ohio,* That after paſſing of this act grand jurors ſhall not attend at any of the ſaid ſuperior courts of law, more days in each term than ſix; to commence on the firſt day of ſuch term.

2. *And be it enacted,* That the juſtices of each county in this territory ſhall at the preceding court of pleas and quarter ſeſſions, order and direct the ſheriff to ſummon, ten days at leaſt before the next ſucceeding court, two conſtables to attend during the continuance of ſuch court in each county. The juſtices of the courts ſhall arrange the number of conſtables in each county reſpectively, that there ſhall be other two conſtables ſummoned to attend each court, and who ſhall not be obliged to attend any other court until all the conſtables in the county in like manner, in rotation; have attended, which ſervice of the conſtables as aforeſaid, ſhall be conſidered as of office, and no fees for the ſame be allowed.

3. *And be it enacted,* That if any ſheriff ſhall fail to perform the duty enjoined as aforeſaid, he ſhall be fined in any ſum not exceeding twenty dollars, for which the juſtices of the court may order execution to iſſue. And if any conſtable, being duly ſummoned, does fail to attend as aforeſaid, he ſhall be fined in any ſum not exceeding ten dollars, for which the juſtice of the court may order execution to iſſue.

4. *And be it enacted,* That all and every law and clauſe of law within the purview of this act, be and is hereby repealed.

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LAWS OF TENNESSEE.

Paſſed at the firſt ſeſſion of the firſt General Aſſembly of the State of Tenneſſee, began and held at Knoxville, on Monday the twenty-eighth day of March, one thouſand ſeven hundred and ninety-ſix.

CHAP. I.

An act aſcertaining the number of Judges of the ſuperior courts of law and equity, and fixing their ſalaries and directing their qualification to office.

1. *Be it enacted by the general Aſſembly of the ſtate of Tenneſſee,* That there ſhall be three judges of the ſuperior courts of law and equity in this ſtate, any one or more of whom are hereby authoriſed and empowered to hold any of the ſaid courts. And it ſhall be the duty of each and every of the ſaid judges to attend each and every term; and in caſe of failure ſo to attend, without ſufficient cauſe for ſuch failure be ſhewn, it ſhall be deemed a miſdemeanor in office.

2. *Be it enacted,* That no perſon ſhall be eligible to, or exerciſe the office of judge of any of the ſaid courts, who has not been an inhabitant of this ſtate three years immediately preceding the time of his appointment to ſaid office—*Provided,* nothing in this act contained, ſhall be conſtrued ſo as to exclude from being eligible to ſaid office, any perſon who was an inhabitant of this ſtate, at the time of making the conſtitution thereof.

3. *Be it enacted,* That each and every of the ſaid judges, before they act as ſuch, ſhall in open court, or before the governor for the time being, take the following oaths:

I A. B. do ſolemnly ſwear, that I will ſupport the conſtitution of the United States of America—So help me God.

I A. B. do ſolemnly ſwear, that I will ſupport the conſtitution of the ſtate of Tenneſſee—So help me God.

I A. B. do ſolemnly ſwear, that I will well and truly ſerve the ſtate of Tenneſſee in the office of judge of the ſuperior court of law and equity of the ſaid ſtate. I will do equal law and right to all perſons, rich and poor, without having regard to any perſon. I will not wittingly or willingly take by myſelf, or by any other perſon, any fee, gift, gratuity or reward whatever, for any matter or thing by me to be done, by virtue of my office, except the ſalary by law appointed. I will not maintain by myſelf, or by any other, privately or openly, any plea or quarrel depending in any of the ſaid courts. I will not delay any perſon of common right, by reaſon of any letter or command from any perſon or perſons in authority to me directed, or for any other cauſe whatſoever; and in caſe any letters or orders come to me contrary to law, I will proceed to enforce the law, ſuch letters or orders notwithſtanding. I will not give my voice for the appointment of any perſon to be clerk of any of the ſaid courts, but ſuch of the candidates as appear to me ſufficiently qualified for that office; and in all ſuch appointments I will nominate without reward, the hope of reward, prejudice, favour, partiality, or any other ſiniſter motive whatſoever; and finally, in all things belonging to my office during my continuance therein, I will faithfully, truly, and juſtly, according to the beſt of my ſkill and judgment, do equal and impartial juſtice, to the public and to individuals—So help me God.

And if any of the ſaid judges ſhall preſume to act in his office before he ſhall have taken the oaths hereby directed, he ſhall forfeit and pay two thouſand dollars to be recovered by action of debt in any of the ſuperior courts, one half to the uſe of the ſtate, and the other half to the perſon or perſons who will ſue for the ſame.

4. *Be it enacted*, That in caſe he ſhall fail to attend during any part thereof, a deduction ſhall be made from the amount of his compenſation as aforeſaid, in proportion to the time he ſhall ſo fail to attend, compared with the whole term of ſaid court; and in either caſe, it ſhall be aſcertained by the clerks of the ſaid courts reſpectively, whoſe duty it ſhall be to certify the ſame, together with the days of attendance, on the certificate of the ſaid judge or judges, to be filed in his office, under his hand and ſeal, upon which certificate the treaſurer is hereby authoriſed to pay the ſum which thereby ſhall appear to be due to the ſaid judge or judges.

5. *Be it enacted*, That the clerk of each of the ſaid courts, ſhall, each day of any term of any of the ſaid courts, enter on the minutes of ſaid courts reſpectively, the name or names of the judge or judges who ſhall be preſent at meeting thereof; and on failure it ſhall be deemed a miſdemeanor in office. And if any clerk ſhall give a certificate contrary to the true intent and meaning of this act, ſuch clerk ſo offending ſhall pay the ſum of five hundred dollars, one half to the uſe of the diſtrict, the other half to the perſon or perſons who may ſue for the ſame; and ſuch clerk ſhall forever after be rendered incapable of holding any civil or military office in this ſtate.

6. *Be it enacted*, That each term of any of the ſaid courts may continue during the ſpace of fifteen juridical days, unleſs the buſineſs ſhall be ſooner ended, in which caſe the time employed ſhall be deemed the term.

CHAP. II.

An act directing the mode of the qualification of the Secretary of ſtate into office.

1. *Be it enacted by the general aſſembly of the ſtate of Tenneſſee*, That the ſecretary of this ſtate, before he enters on the peformance of the duties of his office, ſhall enter into bond with two or more ſufficient ſureties, in the penal ſum of twenty

thouſand dollars, payable to the governor for the time being, and his ſucceſſors in office, for the uſe of the ſtate, which bond ſhall be lodged in the office of the clerk of the ſuperior court of Hamilton diſtrict; and ſhall be the duty of ſaid clerk to keep the ſame, and produce it when called for by the legiſlature, conditioned for his faithful performance agreeably to the conſtitution, and of the duties enjoined on him by law; and ſhall alſo take the following oaths:

I A. B. do ſolemnly ſwear, that I will ſupport the conſtitution of the United States of America—So help me God.

I A. B. do ſolemnly ſwear, that I will ſupport the conſtitution of the ſtate of Tenneſſee—So help me God.

I A. B. do ſolemnly ſwear, that I will faithfully execute the office of ſecretary of the ſtate of Tenneſſee, agreeably to the conſtitution thereof, and that I will faithfully perform the duties enjoined on me by law, according to the beſt of my knowledge and abilities—So help me God.

CHAP. III.

An act to provide for the ſafe keeping of the acts and records of this ſtate.

1. *Be it enacted by the General Aſſembly of the ſtate of Tenneſſee,* That it ſhall be the duty of the ſecretary of ſtate to keep a fair regiſter of all the official acts and proceedings of the governor, and ſhall, when required, lay the ſame, and all papers, minutes and vouchers relative thereto, before the general aſſembly, at every ſeſſion.

2. *Be it enacted,* That whenever a bill ſhall be paſſed by the general aſſembly, and having been ſigned by the ſpeaker of each houſe, ſhall become a law, it ſhall forthwith thereafter be received by the ſaid ſecretary, and he ſhall as ſoon as conveniently may be, after he ſhall receive the ſame, make out and deliver an atteſted copy thereof to the printer, that publication be made; and he ſhall collate the printed copy with the originals, and he ſhall carefully preſerve and keep the originals, and ſhall cauſe the ſame to be recorded in books for that purpoſe.

3. *Be it enacted,* That it ſhall be the duty of the ſaid ſecretary to receive into his ſafe keeping, all bonds for performance, given by public officers to the governor for the time being, for the uſe of the ſtate, which by law ſhall be directed to be lodged in his office, and to lay the ſame before the general aſſembly when required, to record the ſame in books for that purpoſe, and to give atteſted copies thereof agreeable to law.

4. *Be it enacted,* That the ſaid ſecretary ſhall make out and affix the ſeal of the ſtate to all commiſſions iſſued by the governor, except thoſe commiſſions to which the governor ſhall affix the ſaid ſeal, and ſhall enter in books for that purpoſe, the names, rank and dates of ſaid commiſſions; but he ſhall not affix it to any commiſſion before the ſame ſhall have been ſigned

by the governor, nor to any other inſtrument or act without the ſpecial warrant of the governor.

5. *Be it enacted*, That the governor ſhall cauſe a ſeal of this ſtate to be provided; and all copies of records and papers in the ſaid office, authenticated under the ſaid ſeal, ſhall be evidence equally as the original record or paper.

6. *Be it enacted*, That any citizen ſhall be entitled, if he requires the ſame, to have an atteſted copy of any act, record, or paper in the office of the ſecretary, on paying the fees in this act directed, except ſuch papers as ſhall relate immediately to the executive department, and which in the judgment of the governor, ſhall require ſecrecy.

7. *Be it enacted*, That there ſhall be paid to the ſaid ſecretary, for the uſe of the ſtate, the following fees of office, by the perſon requiring the ſame to be done, except when they are performed for any officer of the ſtate in a matter relating to the duty of his office, viz: For making out and atteſting copies of records, ſeventeen cents for each ſheet containing one hundred words, and for authenticating the ſame, by affixing thereto the ſeal of office, if required, one dollar.

8. *Be it enacted*, That there ſhall be paid to the ſaid ſecretary, by the perſon or perſons requiring the ſame to be done, as perquiſite of office, the following fees, that is to ſay—For affixing the ſeal of the ſtate to any paper or inſtrument of writing, foreign to the records or papers of the ſaid office, one dollar.

9. *Be it enacted*, That books and other ſtationary ſhall be provided for the office of the ſaid ſecretary at the expence and charges of the ſtate.

10. *Be it enacted*, That the ſum of four hundred dollars ſhall be allowed and paid yearly and every year to the ſaid ſecretary, in compenſation for his ſervices in performing the duties enjoined on him, which ſum ſhall be paid at the treaſury in half yearly payments, and his receipt or receipts to the treaſurer ſhall be a voucher for the ſame.

11. *Be it enacted*, That the ſaid ſecretary ſhall keep his office at the ſeat of government.

CHAP. VI.

An act to eſtabliſh of a Treaſury Department.

1. *Be it enacted by the General Aſſembly of the ſtate of Tenneſſee*, That there ſhall be two treaſurers one for the diſtricts of Waſhington and Hamilton, who ſhall keep his office at Knoxville, and one for the diſtrict of Mero, who ſhall keep his office at Naſhville.

2. *Be it enacted*, That it ſhall be the duty of the treaſurer for the diſtricts of Waſhington and Hamilton to receive the monies of the ſtate within the ſaid diſtricts of Waſhington and Hamilton, and to diſburſe the ſame agreeably to law, to keep regular and correct accompts of all the monies he receives or pays away, and to cauſe the ſame to be laid before the general

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aſſembly, at each and every ſeſſion, within ſix days after the commencement thereof. And it ſhall be the duty of the treaſurer of Mero, to receive the monies of the ſtate within ſaid diſtrict of Mero, and to diſburſe the ſame agreeable to law, and in like manner to keep regular and correct accompts of all the monies he receives and pays away, and cauſe the ſame to be laid before the general aſſembly, at each and every ſeſſion, within ſix days after the commencement thereof. It ſhall alſo be the duty of the ſaid treaſurer to keep regular accompts with all holders and collectors of monies for the uſe of the ſtate; it ſhall alſo be his duty to cauſe all monies in the ſaid Mero treaſury to be delivered into the treaſury at Knoxville, within ſix days after the meeting of each general aſſembly and the receipt of the treaſurer of the diſtricts of Waſhington and Hamilton ſhall be received in the ſettlement with the treaſurer of Mero diſtrict.

3. *Be it enacted*, That each treaſurer, previous to the entering on the duties of his office, ſhall enter into bond and ſecurity, payable to the governor for the time being or his ſucceſſor in office, for the uſe of the ſtate; which bond ſhall be lodged with the ſecretary of ſtate conditioned for the faithful diſcharge of the duty of his or their office; and it ſhall be the duty of the ſecretary of ſtate to keep ſaid bonds, and produce them when called on by the legiſlature; and each of ſaid treaſurers ſhall alſo take an oath to ſupport the conſtitution of the United States of America, and alſo an oath to ſupport the conſtitution of the ſtate of Tenneſſee; and alſo the following oath, viz:

I A. B. do ſolemnly ſwear, (or affirm as the caſe may be) that I will faithfully execute the office of treaſurer agreeable to law according to the beſt of my ſkill and ability—So help me God.

4. *Be it enacted*, That the ſalaries of each of the treaſurers, to be appointed according to the intent of this act, ſhall be paid them by an allowance of three per cent on all monies received and diſburſed as is herein directed, to be allowed them in the ſettlement of their accompts; which ſettlements ſhall be made at each ſeſſion of the general aſſembly, except when convened by the governor, except ſuch monies as ſhall be paid out of one treaſury into the other, on which no per cent ſhall be allowed by the treaſurer who receives it.

5. *Be it enacted*, That books and other neceſſary ſtationary ſhall be furniſhed by the ſtate.

6. *Be it enacted*, That it is, and ſhall be the duty of the ſaid treaſurers to commence ſuits in the name of the ſtate, againſt any holders or collectors of public monies as aforeſaid, who ſhall fail to account with and pay to the treaſurer of his diſtrict, ſuch monies agreeable to law.

7 *Be it enacted*, That it ſhall be the duty of the preſent treaſurers to deliver to their ſucceſſors in office all public monies that may be in their hands, and all books and papers relative to ſaid office.

CHAP. VII.

An act to repeal an act, entitled "an act to regulate and aſcertain the ſeveral officers fees therein mentioned," paſſed at Knoxville the 29th day of September 1794, and alſo to repeal ſo much of the act entitled, "an act to amend an act paſſed at Newbern in December, 1785, ſo far as reſpects the attornies fees of the ſeveral courts of law and equity, and to eſtabliſh the fees of the ſeveral officers herein after named.

1. *Be it enacted by the general aſſembly of the ſtate of Tenneſſee,* That the clerks of the ſuperior courts of law ſhall receive for every leading proceſs, returnable to the firſt court, including all ſervices thereon together with the diſmiſſion or final judgment where either happens, one dollar.—For every continuance or reference of every cauſe after the ſecond court including all fees for every neceſſary ſervice, forty cents.—For entering every preſentment or indictment, together with charging the priſoner and entering his plea ſixty cents—For the court at which the cauſe is determined, including all fees for every neceſſary ſervice thereon, and entering final judgment, incluſive, one dollar and ſixty cents—for every ſubpœna, provided the party inſert no more than four witneſſes in the ſame, twenty cents—for every execution or order of ſale when neceſſarily iſſued and returned, including all ſervices thereon, with taxing coſts, and copy, and entering ſatisfaction, forty cents—for every ſcire facias againſt bail, with making an iſſue thereon, or entering judgment without plea, including fees for every ſervice neceſſary thereon, provided that the party caſt ſhall not be ſubject to this, unleſs the ſcire facias is requiſite and required by the plaintiff, eighty cents.—For getting a copy of the record of any cauſe, when demanded by either of the parties, ſixty cents.—For every recognizance, twenty cents.—For every order or rule of court, made on matters foreign to the ſuit depending in court and copy thereof, when demanded, twenty four cents.—For ſearching a record out of court, ten cents.—For a commiſſion to take the examination of a feme covert, or witneſſes in any cauſe depending, entering the return thereon and all other ſervices neceſſary thereon, twenty cents.—For a ſpecial venire facias in an action of ejectment, or where the bounds of land ſhall come in queſtion, when the ſaid writ ſhall be iſſued, eighty cents.—For a ſpecial verdict, demurrer, or motion in arreſt of judgment and argument thereon, forty cents.—For a writ of error, certiorari, or appeal, with a tranſcript of the record, and all ſervices thereon, one dollar and ſixty cents.—For making certificates of witneſſes or jurymen's attendance ſix cents.—For each ſecurity taken in iſſuing a writ, twenty cents.—For recording ſaid bond, twenty cents.

To the clerks of the county court of pleas and quarter ſeſſions.—For every leading proceſs, returned to the firſt court including all ſervices, together with diſmiſſion, or final judgment, where either happens, one dollar.—For every preſentment or indictment, charging the priſoner, and entering his plea ſixty cents.—For entering and filing every recognizance, twenty cents.—For every continuance or reference of any cauſe after the ſecond court, including all fees for every neceſſary ſervice thereon, forty cents.—For the court at which the cauſe is determined, including all ſervices, one dollar.—For every ſubpœna, provided the party inſert no more than four witneſſes in the ſame, twenty cents.—For every execution or order of ſale, when neceſſarily iſſued, including all ſervices therein with taxing coſts, and copy, and entering ſatisfaction forty cents.—For every ſcire facias againſt bail, with making up an iſſue thereon, or entering judgment without plea including fees for every ſervice neceſſary thereon, provided that the party paying coſts ſhall not be ſubject to this, unleſs the ſcire facias is neceſſary, and required by the plaintiff, eighty cents.—For a copy of the record of any cauſe, when demanded by either of the parties ſixty cents.—For every order or rule of court made on matters foreign to the ſuit depending in court, and copy thereof if demanded twenty five cents.—For entering on the minutes the probate of wills, qualifying executors, making certificates recording the will, and giving copy thereof, one dollar.—For granting adminiſtration, taking bond and all other ſervices thereon, eighty cents.—For proving and recording at length in bound books, to be kept for that purpoſe and filing an inventory, account of ſales, or account current, exhibited by an executor, adminiſtrator or guardian, for ſuch, copy or certificate of the ſame ſixty cents.—For every marriage licence and bond, ſeventy five cents.—For ordinary licence and bond, and all ſervices neceſſary to be done thereon, ſeventy five cents.—For tavern rates twenty cents.—For ſearching a record out of court, ten cents.—For proving or entering acknowledgement of a conveyance of land, or other eſtate, and certifying the ſame, with order of regiſtration, or examination of a feme covert without commiſſion, twenty five cents.—For a commiſſion to take the examination of a feme covert, or witneſſes in any cauſe depending in ſaid court, entering the return thereon, and all other ſervices neceſſary, twenty cents.—For a guardian or other bond, taken in court, including all ſervices, ſixty cents.—For indentures for binding out apprentics, including all fees for every neceſſary ſervice thereon, ſixty cents.—For a ſpecial verdict, demurer, or motion in arreſt of judgment, forty cents.—For a writ of error or appeal with a tranſcript of the record, and all ſervices thereon one dollar and ſixty cents.—For making out certificates of witneſſes attendance, ſix cents.—For recording a mark or brand, and granting a certificate thereof, if required, ten cents.—For each ſecurity taken in iſſuing a writ, twenty cents.—For recording ſuch bond, twenty cents.—For every certificate to a power of attorney, or other inſtrument of writing including the fees for annexing the county ſeal, eighty cents.—For iſſuing an order to the ſheriff, or ſubpœna for each ſurveyor or juryman to attend on the premiſes on a diſputed claim of land, twenty cents.—For receiving and recording at length the pannel and verdict of a jury on the trial of a diſputed claim of land, including all fees for every neceſſary ſervice thereon ſixty cents.—For the copy of a record certifying to the treaſu-

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rer who is or was ſheriff, or for the ſheriff 's bond, or copy thereof, if recorded to be paid out of the county tax, on the clerk's producing the treaſurer's receipt, eighty cents.—For furniſhing the treaſurer with a liſt of the amount of the tax for each year, to be paid out of the county tax on the clerk's producing the treaſurer's receipt, one dollar and eighty cents.—For rendering to the treaſurer an account of the fines, forfeitures and amerciaments that are due and payable to the uſe of the ſtate, to be paid out of the county tax, on the clerk's producing the treaſurer's receipt, fifty cents.—For every petition of a private nature, with argument thereon excluding ſuch as are the leading proceſs of a ſuit, twenty five cents.—For every ſubpœna to bring in the record, fifty cents.—For the proceedings on a petition for laying off a tract of land agreeable to the contract of a perſon deceaſed, when it is part of a larger tract of land, eighty cents.—For the copy of ſuch proceedings, forty cents.—Recording a power of attorney or bond, forty cents.—For a copy thereof, forty cents.—And all public ſervices done for county, by the clerks of the county courts, are hereby deemed in virtue of his office; amongſt which all notices, or writs of notification againſt jurymen, ſhall be conſidered; and the reſpective courts may allow reaſonable ſatiſfaction for the ſame annually, out of the county tax, not exceeding the ſum of forty dollars. And no money ſhall be granted by the court of any county in this ſtate, on any account whatever, unleſs a majority of the acting juſtices in each county are preſent at the time of granting ſuch money, any law, uſage or cuſtom to the contrary notwithſtanding.

2. *Be it enacted*, That the clerks of the ſeveral ſuperior and county courts of this ſtate, ſhall and they are hereby required to put up in ſome public place in their office, an exact copy of the fees by this act allowed; and alſo in the court houſe, during the ſitting of each court; and for every ſuch failure or neglect they ſhall forfeit and pay the ſum of twelve dollars, to be recovered by warrant for the uſe of any perſon who will ſue for the ſame.

5. *Be it enacted*, That all fees taken by attornies in future, in any ſuits in any of the ſeveral courts of law and equity eſtabliſhed in this ſtate, ſhall be as follows, to wit.—In any ſuit in equity, the ſum of twelve dollars and fifty cents.—In any ſuit in any of the ſuperior courts where the title of lands ſhall come in queſtion, the ſum of ſix dollars and twenty five cents.—In all other ſuits, originally commenced in any of the ſaid courts on the law ſide, the ſum of ſix dollars and twenty five cents.—In all appeals from any other court to the ſaid ſuperior court, the ſum of ſix dollars and twenty five cents.—In all ſuits in the county courts of pleas and quarter ſeſſions, where the titles of land ſhall come in queſtion, the ſum of ſix dollars and twenty five cents.—In all other suits originally commenced in the ſaid county courts, the ſum of two dollars and fifty cents.—In every appeal from the judgment of a juſtice of the peace to the ſaid county, courts the ſum of one dollar and twenty five cents.

6. *Be it enacted*, That the following officers ſhall be enti-

tled to receive the following and no greater fees, for the following ſervices, viz.

To the commiſſioner of affidavits for his ſervices in taking the teſtimony of each witneſs, together with encloſing and returning the ſame, fifty cents.

8. *Be it enacted*, That the coroner may take and receive for his ſervices, the following fees;—For attending on every inqueſt, four dollars, and the ſame fees for diſcharging the duties of a ſheriff as ſuch ſheriff himſelf would be entitled to by this act, for performing the ſame ſervices.

9. *Be it enacted*, That it ſhall and may be lawful for the clerks of the ſuperior and county courts, where ſuits are determined and the fees not paid by the party from whom they are due, to make out execution, directed to the ſheriff of the county where the party reſides, and the ſaid ſheriff ſhall levy the ſame by virtue of the ſaid execution, as in other cases; and to the ſaid execution ſhall be annexed a copy of the bill of coſts of the fees on which ſuch execution ſhall iſſue, wrote in words at length without any abbreviation whatever; and all executions iſſuing without the copy of ſuch bill of coſts annexed ſhall be deemed illegal and no ſheriff ſhall ſerve or execute the ſame.

10. *Be it enacted*, That if the clerk of any court, ſheriff, regiſter, coroner, or other officer of any county, ſhall hereafter be guilty of any breach of the duties enjoined by this act, either by his own confeſſion, or verdict of a jury, it ſhall on a ſecond conviction, be adjudged and deemed a miſbehaviour in office, for which ſuch clerk or other officer ſhall be removed from office.

11. *Be it enacted*, That all laws and clauſes of laws, coming within the purview and meaning of this act, are, and the ſame are hereby repealed and declared to be void.

CHAP. IX.

An act directing the mode of electing the governor and members of the general aſſembly.

1. *Be it enacted by the general aſſembly of the ſtate of Tenneſſee*, That the county courts reſpectively, at the ſeſſion next preceding the day of the election, in every two years ſhall appoint three inſpectors to ſuperintend the election; and if it ſhall at any time happen, that any county court ſhall fail to make ſuch appointment, or any perſon ſo appointed ſhall refuſe to ſerve, the ſheriff, with the advice of three juſtices of the peace, or if none ſhall be preſent, three reſpectable freeholders ſhall before the beginning of ſuch election appoint inſpectors for the purpoſe aforeſaid; and every inſpector who ſhall be appointed by either of the ways aforeſaid, and ſerving purſuant to ſuch appointments, ſhall be held and deemed lawful inſpectors at ſuch elections.

2. *Be it enacted*, That the ſheriffs or returning officers ſhall on the day and at the place for holding each reſpective election,

be provided with one box for receiving the ballots for governor and members of the general aſſembly: The returning officer or his deputy, ſhall receive the tickets in preſence of the inſpectors, and put each ticket into the box, which box ſhall be locked or otherwiſe well ſecured, until the election ſhall be finiſhed: The returning officer ſhall at ſunſet of the firſt day, and in the preſence of the inſpectors, put his ſeal on the place to be made for the reception of the tickets, which ſhall continue until the election ſhall be renewed the ſucceeding day;—and it ſhall be the duty of the ſaid inſpectors to take charge of the box until the poll is opened the next day, and ſhall then be taken off in preſence of the inſpectors.

3. *Be it enacted*, That every perſon qualified to vote in manner directed by the conſtitution, who ſhall attend for that purpoſe at any election ſhall give to the returning officer, in preſence of the inſpectors, a ticket or ſcroll of paper, which ticket ſhall be put in the box in manner before directed; and at the ſame time the clerks of the ſaid election ſhall take down on ſeparate liſts, the name of every perſon voting, and when the election ſhall be finiſhed, the returning officer and inſpectors ſhall in preſence of ſuch of the electors as may chuſe to attend open the box, and read aloud the names of the perſons which ſhall appear in each ticket, and the clerks at the time ſhall number the ballots, each clerk ſeparately. If there ſhall be two tickets rolled up together, or if any ticket ſhall contain the names of more perſons than ſuch elector has a right to vote for in either of theſe caſes, ſuch ticket ſhall not be numbered in taking the ballots, but ſhall be adjudged void. And when all the tickets are numbered, the perſons having the greateſt number of ballots ſhall be declared duly elected; but where two perſons ſhall have an equal number of votes, the returning officer ſhall have the caſting vote.

4. *Be it enacted*, That the governor ſhall be balloted for in each and every county, at the time and places that members of the general aſſembly are elected for ſuch county, and the ballots ſhall be received by the ſheriff or other returning officer, in preſence of the inſpectors of the poll under the ſame rules and regulations as are preſcribed by this act for the elections of members for the general aſſembly; and it ſhall be the duty of the ſheriff or other returning officer of each and every county, to make a correct return of the poll of the election for governor under his hand, in his official capacity, and to cauſe the ſame to be delivered to the ſpeaker of the ſenate, on the firſt day of the ſucceeding ſtated ſeſſion of the legiſlature, under the pains and penalties as inflicted by this act, in caſes of failure to make due returns of the perſons elected to repreſent ſaid county.

5. *Be it enacted*, That every election hereafter to be made by virtue of any writ from the governor, ſhall be conducted and regulated in the ſame manner as is by this act preſcribed, ſo far as the particular caſe can be applied to the general rules.

6. *Be it enacted*, That every election hereafter to be held in this ſtate, ſhall begin at twelve of the clock at noon, on the day

appointed for ſuch election, and ſhall be cloſed at four o'clock on the ſucceeding day.

7. *Be it enacted*, That if any perſon ſhall hereafter vote at an election, who by law ſhall not be entitled to vote at ſuch election, he ſhall forfeit and pay the ſum of ten dollars, to be recovered with coſts, by action of debt, in any juriſdiction having cognizance thereof, one half to the uſe of the county, and the other half to him or them who will ſue for the ſame. And where any ſuit ſhall be brought againſt any perſon for voting as aforeſaid, without having a right to ſuch vote, the proof ſhall be upon the plaintiff.

8. *Be it enacted*, That the inſpectors and clerks of every ſuch election as aforeſaid, ſhall, in the court houſe, before they proceed to buſineſs, (ſwear or affirm, as the caſe may be) faithfully to perform their reſpective duties at ſuch election, agreeably to the conſtitution and laws of this ſtate.

9. *Be it enacted*, That if at any time at ſhall happen, that there ſhall be no ſheriff in any county qualified according to law, the coroner or coroners in ſuch county, is and are hereby empowered to hold the election for ſuch county; and ſuch ſheriff or coroner, within ten days after every election ſhall, at the requeſt of any perſon elected to ſerve in the general aſſembly, or other perſon in his behalf, cauſe fair copies of the liſts of votes, and the number of ballots for each candidate, to be made out and delivered to the perſon requeſting the ſame, or to his order, which liſts and numbers ſhall be ſigned by the returning officer; and if any officer ſhould refuſe ſo to do, or ſhall hold elections in any other manner than is by this act directed, or ſhall neglect or refuſe to make returns of the elections by him to be held, the officer ſo offending ſhall forfeit and pay the ſum of ſeven hundred and fifty dollars, to be recovered by action of debt in any court of record having cognizance thereof, with coſts, one half to the uſe of the ſtate, and the other half to ſuch perſon as will ſue for the ſame.

10. And whereas ſeveral new counties have and may be eſtabliſhed by the preſent general aſſembly, and ſuch new counties are not entitled to ſeperate repreſentation, and it would be inconvenient for the inhabitants of ſaid new counties, to attend at the places of holding elections in the old counties: *Be it enacted*, That in that caſe the ſheriff or other officer of ſaid counties, ſhall hold an election at the reſpective court houſes, or places of holding courts for ſaid new counties on the ſame days as other counties ſhall under this act: And the returning officers of each of ſaid counties ſhall meet on the ſucceeding day after ſuch election, if practicable, or as ſoon as in their power, at ſuch places as are heretofore directed, to compare the votes received by them in each county; and the perſons voted for in either or both counties, having the higheſt number of votes of both counties, ſhall be declared duly elected, upon the ſame principles as above. For the counties of Montgomery and Robertſon, the returning officers ſhall meet at the houſe now occupied by William Prince; and the county of Tenneſſee having loſt its name, the ſheriff of Montgomery ſhall be the returning officer in ſigning credentials to thoſe elected within

1796 the bounds formerly Tenneſſee, now Robertſon and Montgomery. And the returning officer of Carter county ſhall meet at the town of Joneſborough.

CHAP. XII.

An act preſcribing the mode of electing the militia officers of this ſtate.

1. *Be it enacted by the General Aſſembly of the state of Tenneſſee,* That it ſhall be the duty of the ſheriff of each county in this ſtate to hold an election on the firſt Thurſday of Auguſt next and the ſucceeding day, at the reſpective court houſes in each county, for the purpoſe of electing one colonel and two majors; at which election every perſon who ſhall be ſubject to do militia duty, ſhall be entitled to vote for the aforeſaid officers.

2. *Be it enacted,* That each candidate ſhall have been a reſident of the county in which he offers, at leaſt ſix months immediately before the day of election.

3. *Be it enacted,* That when one or more candidates are offered for lieutenant colonel commandant, that when the polls are cloſed and votes counted out, the perſon who hath the higheſt number of votes ſhall be the officer as aforeſaid.

4. *Be it enacted,* That when one or more candidates are offered for firſt major, when the polls are cloſed and votes counted out, the perſon having the higheſt number of votes ſhall be the officer as aforeſaid: And the ſecond major in the ſame manner as that of the firſt major.

5. *Be it enacted,* That all elections for captains, lieutenants, and enſigns, ſhall be held at their reſpective muſtering grounds, on the third Thurſday of Auguſt next, in the manner following: Any juſtice of the peace of the company or county, wherein ſuch election is to be held, ſhall appoint and qualify three men, of good character, as judges of the election; and when one or more are candidates, for captain, lieutenant, or enſign, he having the greateſt number of votes ſhall be the officer of the grade to which he offered.

6. *Be it enacted,* That where two or more candidates are equal, and higheſt in votes, in the election of field officers, the ſheriff, or returning officer, ſhall determine, by his vote, who is elected: And in the election of company officers, where two or more of the candidates are equal, and higheſt in votes, the inſpectors of ſaid elections ſhall, in like manner, determine who is elected.

7. *Be it enacted,* That the ſheriff, or returning officer of the electors for field officers, in the reſpective counties, ſhall certify under his hand and ſeal, the perſons duly elected as field officers, in his county to the governor, who is hereby authorized to commiſſion them accordingly.

8. *Be it enacted,* That the inſpectors of the elections for commiſſioned officers of companies, ſhall certify, under their hands, in like manner to the commanding officer of their reſpective

counties, the perſons duly elected in the companies for which they were inſpectors reſpectively, which certificates the ſaid commanding officers are hereby directed to tranſmit to the governor, certified and ſealed up, who ſhall commiſſion thoſe duly elected.

CHAP. XIII.

An act directing the mode of prefering memorials to the General Aſſembly for the diviſion of counties and fixing of court houſes.

1. *Be it enacted by the General Aſsembly of the state of Tenneſsee,* That from and after the paſſing of this act, any perſon or perſons having a deſire to divide a county or counties, ſhall advertiſe, at leaſt ſix months preceding the next ſeſſion of the general aſſembly, at the court houſe, and in each captain's company in ſaid county, their intention of prefering a memorial to the ſaid aſſembly, deſcribing the line or lines of ſuch diviſion, as intended to be made.

2. *Be it enacted,* That in all caſes where any memorial is preſented to the general aſſembly, for the diviſion of a county, there ſhall alſo be preſented with it, a fair and accurate plat of the county or counties to be divided, deſcribing the old and new counties, on one and the ſame plat which ſhall be actually ſurveyed by a ſworn ſurveyor, and by him ſubſcribed and certified to be juſt and true.

3. *Be it enacted,* That in all caſes, where any perſon or perſons intends to prefer a memorial to the general aſſembly, for the removal of a court houſe, in any county in this ſtate, ſuch perſon or perſons ſhall, for ſix months previous to the meeting of ſuch aſſembly, advertiſe at the court houſe of ſuch county, and at the uſual places of holding muſters in each company, the intention of ſuch memorial, the reaſons of removal, the place it is to be removed to or within two miles thereof, & ſhall deliver to the aſſembly with ſuch memorial, a fair and juſt plat of the county, the place where the ſaid court houſe ſtands, and where it is intended to be removed, all which ſhall be ſurveyed and returned on oath, and paid by the memorialiſts.*

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* *The law of North Carolina, passed in* 1741, *Chap.* 18, *the 2nd and 3d sections of which are still in force, were not inserted in the proper place, and is in the following words :*

2. *And be it further enacted by the authority aforesaid,* That the juſtices of each county ſhall and may, from time to time, and at all times hereafter, employ perſons to keep and maintain the court houſe, priſon, and ſtocks, already built, and ſuch as are to be built, by virtue of this or any other act, or to re build ſuch as have fallen to decay or ruin, and the ſame to keep in good repair, by laying a poll-tax on the inhabitants of their reſpective counties as aforeſaid.

3. *And be it further enacted by the authority aforesaid,* That if any perſon ſhall neglect or refuſe to pay the aforeſaid levies,

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in manner aforeſaid, and ſhall be in arrear, after the laſt day of payment, ſuch perſon ſhall be liable to double diſtreſs; to be levied on his goods and chattels by the ſheriff of the county where ſuch delinquent inhabits: And for the preſervation of the health of ſuch perſons as ſhall, at any time hereafter, be committed to the county priſons, the court ſhall have power to mark out ſuch a parcel of land as they ſhall think fit, not exceeding ſix acres, adjoining to the priſon, for the rules thereof; and every priſoner, not committed for treaſon or felony, giving good ſecurity to the ſheriff of the county to keep within the ſaid rules, ſhall have liberty to walk therein out of the priſon, for the preſervation of his or their health: And every priſoner giving ſuch ſecurity as aforeſaid, and keeping continually within the ſaid rules, ſhall be, and is hereby adjudged and declared to be, in law, a true priſoner; and that every perſon therewith concerned may know the true bounds of the ſaid rules, the ſame ſhall be recorded in the county records, and the marks thereof ſhall, from time to time, be renewed, as occaſion ſhall require.

CHAP. XIV.

An act to amend an act entitled "an act to regulate the deſcent of real eſtates to do away entails, to make proviſion for widows, and to prevent frauds in the execution of laſt wills and teſtaments;" and alſo to amend an act, entitled, "an act to explain, amend and ſupply the deficiencies of the before recited act."

Be it enacted by the General Aſſembly of the ſtate of Tenneſſee, That from and after the paſſing of this act, all real eſtates of inheritance, as well as perſonal, ſhall deſcend to, and be divided between brothers and ſiſters as well of the half blood as of the whole blood, in the ſame proportion as they have heretofore been divided between brothers of the whole and half blood only; and in the ſame manner to collateral heirs for want of ſuch brothers or ſiſters; and that all and every act or acts, heretofore in force and uſe in this ſtate, ſhall be, and they are hereby repealed, ſo far as they come within the purview and meaning of this act.

CHAP. XV.

An act for the appropriation of certain monies therein mentioned, and for other purpoſes.

1. *Be it enacted by the General aſſembly of the ſtate of Tenneſſee,* That all monies ariſing from fines and forfeitures impoſed on public offenders, at any of the ſuperior courts, ſhall be appropriated to defray the contingent charges of the reſpective diſtricts, excluſive of thoſe accruing for the diſtrict

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court houſe, priſon and ſtocks ; and the balance, if any, of the ſaid monies, ſhall be yearly, and every year, accounted for, and paid by the county truſtee into the public treaſury of the ſtate ; any law, uſage or cuſtom to the contrary notwithſtanding.

2. *Be it enacted*, That all monies ariſing from fines and forfeitures, impoſed on public offenders, at any of the county courts, ſhall be applied to the uſe of the county, in which ſuch fine or forfeiture ſhall be made

3. *Be it enacted*, That each of the clerks of the ſuperior courts within this ſtate, ſhall, within twenty days after the end of each term, render on oath, an account of all monies which, they ſhall have received, for fines and forfeitures, and pay the ſame to the truſtee of the county, in which the reſpective ſuperior courts ſhall be held.

4. *Be it enacted*, That each of the clerks of the ſuperior courts, ſhall, at the firſt court, to be held for the reſpective diſtricts, after the firſt day of May next, enter into bond, with ſufficient ſecurity, to the governor for the time being, and his ſucceſſors in office, in the ſum of one thouſand dollars, with condition for the faithful collection and payment of the fines and forfeitures agreeable to law ; which bond ſhall be by the different clerks depoſited in the hands of the truſtee of the county in which the ſuperior court may be held, in twenty days after the time of entering into the ſame ; and on failure to depoſit the bond as aforeſaid, the clerks ſo failing, ſhall for ſuch offence, forfeit and pay to the uſe of the diſtrict five hundred dollars, to be recovered by action of debt, in the name of the governor for the time being, in any court having cognizance thereof.

5. *Be it enacted*, That the different truſtees ſhall, at the court at which they ſhall be appointed, enter into bond, with ſufficient ſecurity, to the chairman of the county court and his ſucceſſors in office, in the penal ſum of two thouſand dollars, conditioned for the ſafe keeping and faithful payment of all diſtrict and county monies which ſhall be depoſited in their reſpective hands, agreeable to the orders of the court of the county, to which they ſhall be appointed truſtees.

6. *Be it enacted*, That it ſhall be the duty of the different truſtees to keep a fair and regular account of all the diſtrict and county monies which they ſhall receive, to pay the ſame agreeably to the different appropriations that may be made by the county court, and to keep fair and regular accounts of the ſame ; and at the firſt court to be held for the county, after the firſt day of January in each and every year, to lay the ſaid accounts before the court for their inſpection.

7. *Be it enacted*, That every act and acts, clauſe and clauſes of acts that comes within the purview of this act is hereby repealed and made void.

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CHAP. XVII.

An act to provide for the payment of the Governor and directing the place of his reſidence.

Be it enacted by the General Aſſembly of the state of Tenneſſee, That the governor of this ſtate ſhall keep his office and reſide at the ſeat of government; and ſhall receive for his ſervices, to be paid out of the public treaſury, by the treaſurer of the diſtricts of Waſhington and Hamilton, on a warrant or warrants to be iſſued by the governor, under his hand and ſeal, and atteſted by the ſecretary, to be paid in half yearly payments; and in caſe there ſhall be no money, or not ſufficient to pay the ſum that may at any time be due to the governor, the treaſurer for the diſtricts aforeſaid ſhall certify the ſame, under his hand and ſeal, to the treaſurer of Mero diſtrict, which, together with the governor's warrant, authenticated as aforeſaid, ſhall be ſufficient to authoriſe the ſaid laſt mentioned treaſurer to pay the money that may appear to be due thereon.

CHAP. XIX.

An act to repeal an act, entitled, "an act for the relief of ſuch perſons as have been diſabled by wounds, or rendered incapable of procuring for themſelves and families ſubſiſtance in the militia ſervice of this territory, and providing for the widows and orphans of ſuch as have died."

Be it enacted by the General Aſſembly of the state of Tenneſſee, That an act, entitled, "An act for the relief of ſuch perſons as have been diſabled by wounds, or rendered incapable of procuring for themſelves and families ſubſiſtance, in the militia ſervice of this territory, and providing for the widows and orphans of ſuch as have died," paſſed on the ſeventh day of September, in the year one thouſand ſeven hundred and ninety four, be, and the ſame is hereby made void.

CHAP. XX.

An act making proviſion for miſtakes in ſurveys of land.

1. *Be it enacted by the general aſſembly of the state of Tenneſſee,* That whenever there has been, or hereafter may be an error by the ſurveyor, in platting or making out certificate to the ſecretary's office, or the ſecretary ſhall miſtake in making out the courſes agreeable to the ſaid returns, or ſhall miſname the claimant, or otherwiſe, ſo as ſuch claimant ſhall be injured thereby, the claimant ſo injured ſhall prefer a petition to the county court of pleas and quarter ſeſſions where ſuch land is ſituated, ſetting forth the injury he, ſhe or they might ſuſtain

in conſequence of ſuch error or miſtake, with all and ſingular the matters and things relative thereto; and the ſaid courts are hereby authoriſed to hear teſtimony reſpecting the truth of the allegations ſet forth in the ſaid petition; and if it ſhall appear to them by ſaid teſtimony, or from the return of the ſurveyor, or error of the ſecretary, that the patentee of ſuch lands is liable to be injured thereby, ſuch court is hereby required to direct their clerk to certify ſuch facts as appears to their ſatisfaction.

2. *Be it enacted*, That any perſon who diſcovers there is an error in the regiſtration of his or their grants or meſne conveyances, ſhall be at liberty to prefer a petition to the county court, in the ſame manner as in this act before directed; and on hearing the ſame, if it appears to the ſatisfaction of the court, that error has been made, they are hereby directed and required to order the regiſter of the county to correct ſuch error ſo made, and make the records by him kept conformable to the grant, meſne conveyance, bill of ſale, or other inſtrument of writing in which it appears ſuch miſtake has been made: *Provided*, That not leſs than five acting juſtices of the ſaid court ſhall be preſent on hearing of ſuch petition, and that ſuch petitioner ſhall prove to the court that he has notified every perſon having lands adjoining thoſe mentioned in the petition, thirty days previous to prefering the ſame; and that he has notified every perſon who claims title to the ſaid lands deſcribed in the ſaid petition: *Provided also*, That any perſon who may be diſſatisfied with the judgment of any county court, on his, her or their petition, ſhall be at liberty to appeal to the ſuperior court of the diſtrict as in other caſes; and no petition ſhall be ſet for hearing the firſt term: *Provided*, That when any perſon petitions for the alteration of a deed, meſne conveyance or bill of ſale, the ſame notice ſhall be given to the grantor of ſuch deed or meſne conveyance.

3. *Be it enacted*, That the clerks of the county courts where ſuch petition ſhall be preferred, ſhall receive the ſum of ſixty cents, for their ſervices, on each petition and no more, to be paid by the party petitioning.

4. *Be it enacted*, That the county courts, when they think neceſſary, ſhall order the ſurveyor and five freeholders, who are not intereſted, to examine and ſurvey diſputed lands, to aſcertain the lines, and to make return thereof to the ſaid court, on oath: *Provided*, That the expence of ſuch examination and ſurvey, ſhall be paid by the party petitioning as aforeſaid.

CHAP. XXIII.

An act to prevent the obſtruction of the navigation of Red river.

1. *Be it enaced by the general aſsembly of the state of Tenneſsee*, That the navigation of Red river, from the Kentucky line to where the ſaid line croſſes the ſame, to the mouth thereof, ſhall be and remain open and free.

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2. *Be it enacted,* That if any perſon or perſons have heretofore erected, or ſhall hereafter erect any fiſh dam on the ſaid river, he ſhall open, or leave open, in the deepeſt part of the channel of the river where any ſuch dam is or may be erected, one third of the width of ſaid channel, and keep the ſame open.

3. *Be it enacted,* That in caſe any perſon or perſons ſhall fail to comply with the above, he ſhall forfeit and pay for every ſuch offence, fifteen dollars, recoverable before any juriſdiction having cognizance thereof, one half thereof to the perſon ſuing for the ſame, and the other half to the county where ſuch offence ſhall be committed.

4. *Be it enacted,* That if any perſon or perſons ſhall after the paſſing of this act, make any hedges, or cut, or cauſe to be cut, any tree or trees in ſaid river, he ſhall forfeit and pay for every ſuch offence, ten dollars, recoverable before any juriſdiction having cognizance thereof, one half to the uſe of the perſon ſuing for the ſame, and the other half to the county where ſuch offence ſhall be committed.

LAWS OF TENNESSEE.

Paſſed at the ſecond ſeſſion of the firſt General Aſſembly of the State of Tenneſſee, began and held at Knoxville, on Saturday the thirtieth day of July, one thouſand ſeven hundred and ninety-ſix.

CHAP. III.

An act directing the mode of electing the ſeveral officers, whoſe appointments are by the conſtitution veſted in the county courts of pleas and quarter ſeſſions.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That where any vacancy may happen by death, reſignation, or otherwiſe, the right of which appointment is by the conſtitution veſted in the county courts, then and in that caſe, ſuch court ſhall hold an open and free election on the ſecond day of the term in which ſuch appointment is to be made, admitting all citizens to the privilege of offering as candidates, except ſuch as are prohibited by the conſtitution or ſome of the exiſting laws of this ſtate.

2. *Be it enacted,* That it ſhall be the duty of the chairman of any of the aforeſaid courts, or any other juſtice acting in his place, to cauſe public notice, in writing, to be ſet upon the door of the court houſe upon the firſt day of the term in which ſuch election is to be held, ſignifying and ſetting forth, under his hand, which of the offices may be vacant, and the time preſcribed by this act for filling the ſame; any law, uſage or cuſtom to the contrary notwithſtanding.

LAWS OF TENNESSEE. 1797

Paſſed at the firſt ſeſſion of the ſecond General Aſſembly of the ſtate of Tenneſſee, begun and held at Knoxville, on Monday, the eighteenth day of September, one thouſand ſeven hundred and ninety ſeven.

CHAP. II.

An act to aſcertain what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for, and paying public taxes.

3. *Be it enacted,* That all taxable property, and polls, ſhall be returned in the county where ſuch property and polls ſhall be on the firſt day of January, one thouſand ſeven hundred and ninety eight, and in each ſucceeding year; and the juſtices when ſo appointed, ſhall without delay, fix the time and place in each diſtrict, for receiving liſts of taxable property and polls; and the ſaid juſtices ſo appointed ſhall advertiſe the ſame at ſix of the moſt public places in their reſpective diſtricts, at leaſt fifteen days previous to the time appointed to receive ſuch liſts; and the clerks of each court ſhall furniſh each juſtice, within twenty days after their appointment, with a fair alphabetical copy at large, of the taxable property and polls within their diſtrict the preceding year.

4. *Be it enacted,* That the inhabitants of the reſpective diſtricts in each county, ſhall attend at the time and place ſo to be appointed, and ſhall return on oath in writing, to the juſtices appointed to receive the ſame, all his, her or their taxable property and polls in ſuch county, the quantity of lands, diſtinguiſhing the particular tracts, the number of free males and ſervants between the age of twenty one and fifty years, the number of ſlaves, male and female, between the age of twelve and fifty years, which to him, her or them belonged, or who live in his, her or their families, unleſs the ſaid perſon or perſons living in ſaid family doth return themſelves, on the firſt day of Janury, one thouſand ſeven hundred and ninety-eight, and on the firſt day of January in each ſucceeding year; and the oath to be adminiſtered by the juſtice receiving ſuch liſts, ſhall be as follows:

You do ſwear (or affirm as the caſe may be) that the liſt by you delivered, contains a juſt and true account of all the property and polls for which by law you are ſubject to pay taxes in this county, to the beſt of your knowledge and belief.

5. *Be it enacted,* That it ſhall be the duty of the ſheriff in each county, by ſuch lawful ways and means as ſhall be in his power, by having recourſe to the regiſters' and clerks' offices or otherwiſe, to diſcover ſuch taxable property and polls as

1797 ſhall not have been returned within the time limited by law; and to report the ſame in writing, under his hand, to the court of the county, which report, the ſaid clerk ſhall enter in his liſt of taxable property to the treaſurer of his diſtrict, in the ſame manner as if it had been taken by a juſtice of the peace in manner and form as preſcribed by law.

6. *Be it enacted*, That every perſon reſiding out of this ſtate, and holding land or other taxable property within the ſame, in manner aſcertained in this act, ſhall by himſelf, his agent or attorney, return an inventory thereof, in the county in which the ſame may be in manner and form as by this act preſcribed for citizens of this ſtate.

7. *Be it enacted*, That the juſtices who ſhall be appointed to receive the liſts of taxable property and polls, ſhall make return of their liſts reſpectively to their reſpective county court, next after ſuch liſts ſhall be received, and the juſtices in their returns ſhall, excluſive of the original liſts by them received, diſtinguiſh the perſons names, the ſeveral tracts of land, the quantity and ſituation of each tract, the number of free polls and the number of black polls, in the following manner, viz:

Perſons names.	Quantity in each tract.	Situation or place where each tract lies.	Number of free polls.	Number of town lots.	Number of black polls.	Number of ſtud horſes.	Number of billiard tables.	Amount of each perſon's taxable property.

8. *Be it enacted*, That if any perſon appointed to receive liſts of taxable property and polls as by this act directed, ſhall fail or neglect to perform the duties of his appointment, the perſon ſo failing or neglecting, ſhall be guilty of a miſdemeanor in office.

9. *Be it enacted*, That if any maſter or miſtreſs of a family, his, her or their agent, manager or attorney, after due notice given as before directed, ſhall fail or neglect to return inventories of his, her or their taxable property and polls, in manner before mentioned, each and every perſon ſo failing or neglecting, ſhall be ſubject to a double tax, which ſhall be collected as herein after directed; the number of free polls and taxable property of ſuch perſons ſo failing, to be reported by the juſtice to the beſt of his knowledge. And if any executor, adminiſtrator, guardian, truſtee, agent or attorney, ſhall, after due notice as aforeſaid, fail to return an inventory to the juſtice appointed to receive the ſame of the taxable property in his truſt or poſſeſſion, the property of the teſtator, inteſtate, minor or abſentee ſhall be liable and ſtand bound to pay a double tax, and the juſtice ſhall report the ſame to the beſt of his knowledge or information; and a double tax ſhall be levied on the proper eſtate of ſuch executor, adminiſtrator, guardian, truſtee, agent or attorney, and collected and paid as hereafter directed; and if any perſon who is not a reſident of this ſtate, ſhall fail,

by himſelf, his agent or attorney, to return his, her, or their taxable property, as by this act directed, the property of ſuch perſon ſo failing, ſhall be liable to, and ſtand bound to pay a fine of fifty dollars, and a double tax, to be collected and paid as by this act directed, and the juſtice ſhall report the ſaid property to the beſt of his knowledge and information as aforeſaid.

10. *Be it enacted*, That the ſeveral juſtices appointed to receive the liſts of taxable property and polls, ſhall make return of their own liſts to the county courts, or to ſome other juſtice; and if any juſtice appointed to receive liſts of taxable property and polls, ſhall die, refuſe to act, or remove out of the county, before the duty of his appointment ſhall be performed, any three juſtices of the ſaid county may, and they are hereby directed and authoriſed to appoint another to act in the place of ſuch perſon ſo dead, refuſing to act, or removing; and the perſon ſo appointed ſhall have the ſame power and authority in all reſpects as if he had been originally appointed, and ſubject to the ſame pains and penalties.

11. *Be it enacted*, That the clerk of each court ſhall record at large, in alphabetical order, the annual returns to be made by the juſtices in his county; and the court ſhall make a reaſonable allowance for ſuch ſervices, to be paid out of the county tax.

12. *Be it enacted*, That any perſon incurring the ſaid double tax in this act mentioned, for omitting to return his, her or their liſts of taxable property and polls, may apply to the county court to which ſuch liſts ſhall be returned, or to the next ſucceeding court, and ſuch court, upon ſufficient reaſon ſhewn, may direct that ſuch perſon ſhall pay in the ſame manner and form as if no double tax had been incurred, together with ſuch coſts as may have accrued in conſequence of ſuch neglect.

CHAP. III.

An act for laying and collecting county taxes and for other purpoſes.

1. *Be it enacted by the General Assembly of the State of Tenneſſee*, That the juſtices of the ſeveral county courts in this ſtate, ſhall lay a tax annually, not exceeding twelve and an half cents on each hundred acres of land; a tax not exceeding twenty five cents on each town lot; a tax [illegible] exceeding twenty five cents on each ſtud horſe, kept for covering mares; a tax not exceeding twenty five cents, on each taxable black poll; a tax not exceeding twelve and an half cents, on each taxable white poll; a tax not exceeding ten dollars on each biſliard table, to be levied by a majority of the acting juſtices of the county courts reſpectively, for the payment of building or repairing a court houſe, priſon and ſtocks in each county in this ſtate, and other county contingencies.

2. *Be it enacted*, That the ſollowing county courts, viz Knox,

and Carter, ſhall have power to levy and collect an additional county tax, not exceeding the ſums on the articles above mentioned, for the purpoſes of building or repairing court houſe, priſon and ſtocks, when the ſame may be found neceſſary.

3. *Be it enacted,* That the aforeſaid tax ſhall be collected in manner and form directed for collecting public tax, and paid agreeable to the directions contained in the act entitled, "An act directing the mode of ſettling with the collectors of county tax, &c."

4. *Be it enacted,* That all laws and parts of laws, that comes within the purview and meaning of this act, ſo far as reſpects the levying and collecting county tax, be and the ſame is hereby repealed and made void.

5. *Be it enacted,* That this act ſhall be in force from and after the firſt day of January next. *Provided,* That nothing contained in this ſection ſhall be ſo conſtrued as to repeal any law paſſed for the benefit of any county in this ſtate, except the act, entitled, "An act to empower the juſtices of Hawkins county to lay a tax for the purpoſe of erecting a court houſe, priſon and ſtocks in ſaid county," which is hereby repealed.

CHAP. IV.

An act for the purpoſe of deſtroying Squirrels, Crows, and Wolves.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing of this act, it ſhall and may be lawful for each county court in this ſtate, at the time of laying the county tax, to lay a tax to be paid in ſquirrel or crows ſcalps, on every perſon ſubject to a poll tax, in their reſpective counties, not exceeding twenty five ſquirrels to each poll.

2. *Be it enacted,* That every perſon ſubject to pay a poll tax, ſhall deliver to the juſtice of the peace, who is appointed to take in the liſt of taxable property, in the diſtrict where he or ſhe may reſide, a ſufficient number of ſcalps to ſatisfy the number of polls he, ſhe, or they may be liable to pay tax for, agreeable to the number of ſcalps ſo laid by the court, on each poll, or one crow ſcalp in lieu of two ſquirrel ſcalps; and it ſhall be the duty of the juſtice, who is appointed as aforeſaid, to burn the ſcalps ſo delivered, and enter the number in the tax liſt, in a column for that purpoſe.

3. *Be it enacted,* That every perſon who fails to deliver their number of ſcalps, ſhall for every ſcalp ſo failing to deliver, pay one cent, to be collected, accounted for, and applied under the ſame rules and reſtrictions as other county taxes.

4. *Be it enacted,* That the court of every county is hereby authoriſed to lay a rate on wolf ſcalps, not exceeding two dollars for each ſcalp, to be paid out of the county treaſury, by the truſtee of the county.

5. *Be it enacted,* That before any perſon ſhall be authoriſed

to draw his pay for the ſcalp of a wolf he ſhall appear before ſome juſtice of the peace of ſaid county wherein he killed the ſame, and make oath, or affirmation, that he did actually kill the wolf in the county where ſaid juſtice reſides, ſince the promulgation of this act, and on ſuch qualification, it ſhall be the duty of ſaid juſtice, to burn the ſcalp or ſcalps, and grant him a certificate, directed to the truſtee of the county, together with an order to pay the ſum the court may appropriate for the killing each wolf.

CHAP. V.

An act making proviſion for the poor.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the juſtices of the peace, in each county in this ſtate, are hereby required and empowered to take cognizance of all poor perſons in the county, whom they or a majority of them may adjudge proper to be ſupported at the charge and expence thereof. *Provided*, That no perſon ſhall be entitled to the benefit of this act who has not been an inhabitant of the county, by actual reſidence, for one whole year next preceding ſuch application.

2. *Be it enacted*, That the ſaid juſtices or a majority of them, at the next court of pleas and quarter ſeſſions, which ſhall be held in each county after the firſt day of May after the paſſing of this act, and at the ſaid court in each and every ſucceeding year, ſhall and are hereby empowered, if neceſſary, to aſſeſs and levy a tax on the taxable property and polls in each county reſpectively, for the maintenance and ſupport of ſuch poor perſon or perſons: *Provided*, That the ſaid tax ſhall not exceed ſix cents on each hundred acres of land, and on each negro not more than ſix cents, and on each free perſon taxable by law, not more than three cents.

3. *Be it enacted*, That the ſheriff in each county reſpectively, ſhall collect the ſaid tax in each and every year, under the ſame rules, regulations and reſtrictions as other county tax: *Provided*, That nothing ſhall be received in payment thereof but money; and the ſaid ſheriff in each and every year, ſhall pay the amount of the ſaid tax, after deducting his commiſſions and ſuch allowances as ſhall by the court be admitted for delinquents, to the truſtee of the county, on or before the twenty fifth day of December in each year, and ſhall take receipt accordingly.

4. *Be it enacted*, That the truſtee of the county ſhall and is hereby required to pay the money by him received from the ſheriff in virtue of this act, to the perſon or perſons who ſhall be authorized to receive the ſame, by an order of the juſtices of the court, ſigned by the preſiding juſtice and counterſigned by the clerk thereof, and the county truſtee ſhall carefully preſerve all ſuch orders: *Provided*, That no ſuch order ſhall be allowed unleſs a majority of the juſtices of the county be preſent in court.

5. *Be it enacted*, That the juſtices as aforeſaid, ſhall cauſe the clerk of the court to enter on the journals or minutes thereof, the name, age and condition as near as may be, of each poor perſon whom they ſhall adjudge proper to be ſupported at the charge of the county, at the time of ſuch adjudication, and alſo, they ſhall cauſe to be entered thereon, the quantity of allowance by them decreed for his or her ſupport, a copy of which entry, ſigned by the clerk of the court, and a certificate of the amount of the poor tax by him alſo ſigned, ſhall be given to the ſaid truſtee, and the ſaid truſtee is hereby required to enter the ſame on his book.

6. *Be it enacted*, That in caſe of failure, neglect or refuſal of the ſheriff to pay the amount of the poor tax to the truſtee of the county as by this act required, it ſhall and may be lawful for the court of the county in which ſuch ſheriff lives, on motion of ſaid truſtee, to enter up judgment againſt ſaid ſheriff and his ſecurities, at any time, either before or after the expiration of his office, for all ſuch ſum or ſums of money as he may be chargeable with by virtue of this act, and execution thereupon ſhall iſſue againſt the goods and chattels, lands and tenements of ſuch ſheriff and his ſecurities: *Provided*, That the ſheriff ſhall have written notice of ſuch motion twenty days previous to the making thereof.

7. *Be it enacted*, That the truſtee of the county ſhall once in every year at the court of pleas and quarter ſeſſions, which ſhall be held in each county after the firſt day of May, ſettle and account with the juſtices of the county in which ſuch truſtee lives, for all ſums of money which he may receive in virtue of this act, deducting all commiſſions; and if any balance does remain over and above what will appear by the order or orders as aforeſaid by him to have been paid and diſburſed, ſuch balance or balances ſhall be applied to diſcharge any arrears that the county may owe for the ſupport of the poor; and all ſuch being paid, afterwards ſuch balances ſhall remain over in his hands, as a fund in aid of the poor tax of the next ſucceeding year; and if any truſtee of a county, ſhall fail, neglect or refuſe to ſettle and account as by this act required, he ſhall forfeit and pay a ſum equal to double the amount of the poor tax laid by the court, for the year in which he ſhall make ſuch failure, refuſal or neglect, to be recovered by action of debt, bill or plaint, in the court of the county in which ſuch truſtee ſhall live with coſts of ſuit in the name of the preſiding juſtice of the court and to be applied to the uſe of the poor of the county.

8. *Be it enacted*, That the clerk of the court in each county reſpectively, being thereto required, ſhall produce to the juſtices of the court aſſeſſing the ſaid poor tax, a liſt of the taxable property, negroes taxable by law incluſive, and alſo the number of taxable free perſons in the county, as aſcertained by the county roll of the preceding year; and it ſhall alſo be a duty of the clerk in each county to aſcertain the ſaid tax in the roll for collection of the ſtate and county tax, and the juſtices of the court in each county ſhall make ſuch compenſation to the

clerk for his ſervices enjoined by this act as in their diſcretion they ſhall deem juſt to be paid out of the county tax.

9. *Be it enacted,* That the county truſtee ſhall be allowed the ſum of two and a half per centum as compenſation for receiving and paying away all monies by virtue of this act.

10. *Be it enacted,* That all and every act and acts and every clauſe and article thereof, heretofore made and coming within the purview of this act, is hereby repealed and made void to all intents and purpoſes.

CHAP. VI.

An act to regulate the times of holding ſuperior courts of law and equity in the diſtricts of Waſhington and Hamilton, and for the county courts of pleas and quarter ſeſſions therein mentioned.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That ſuperior courts of law and equity in and for the diſtrict of Waſhington, ſhall commence on the firſt Mondays of March and September, and ſuperior courts of law and equity in and for the diſtrict of Hamilton, ſhall commence on the fourth Mondays of the ſame months in each and every year, any law, uſage, or cuſtom to the contrary notwithſtanding.

2. *Be it enacted,* That the county courts of pleas and quarter ſeſſions in and for the county of Knox, ſhall commence on the ſecond Mondays of January, April, July, and October; and county courts of pleas and quarter ſeſſions in and for the county of Jefferſon, ſhall commence on the third Mondays of the months laſt above mentioned. And county courts of pleas and quarter ſeſſions in and for the county of Greene, ſhall commence on the fourth Mondays of the months laſt above mentioned. And county courts of pleas and quarter ſeſſions in and for the counties of Waſhington and Cocke, ſhall commence on the firſt Mondays of February, May, Auguſt and November. And county courts of pleas and quarter ſeſſions in and for the counties of Carter and Sevier, ſhall commence on the ſecond Mondays of the months laſt above mentioned. And county courts of pleas and quarter ſeſſions in and for the counties of Sullivan and Grainger, ſhall commence on the third Mondays of the months laſt above mentioned. And county courts of pleas and quarter ſeſſions in and for the counties of Hawkins and Blount ſhall commence on the fourth Mondays of the months laſt above mentioned, any law, uſage or cuſtom to the contrary notwithſtanding.

3. *Be it enacted,* That all actions, ſuits, writs, plaints, recognizances, indictments and preſentments whatever, upon the dockets of each and every of the ſaid ſuperior courts of law and equity, and of the county courts of pleas and quarter ſeſſions in and for the ſaid counties, ſhall be proceeded on by each and every of the ſaid courts reſpectively, held as is directed by this act, in the ſame manner as if no alteration of time had taken place.

4. *Be it enacted*, That this act ſhall be in force from and after the firſt day of January next.

CHAP. XIV.

An act directing the mode of ſettling with collectors of county taxes, and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the ſeveral county courts in this ſtate ſhall, at the next court to be held in each county, from and after the firſt day of January next, appoint three commiſſioners, who ſhall hold their appointment during the term of four years, and at the expiration of the ſaid term, the reſpective courts ſhall appoint the ſame or others to fill ſuch vacancy under the ſame rules and reſtrictions as preſcribed in this act, *Provided always*. That ſuch courts ſhall not appoint any perſon who is a member of their own body, and the commiſſioners thus appointed, ſhall enter into bond with approved ſecurity in the ſum of one hundred dollars, payable to the chairman of the court and his ſucceſſors in office, conditioned for the faithful performance of the ſeveral duties required by this act.

2. *Be it enacted*, That it ſhall be the duty of ſaid commiſſioners or a majority of them, to call upon ſuch perſon or perſons as ſhall be appointed for collecting county tax, in the following manner, viz.-- At the expiration of twelve months from and after the collector entering into the duties of his appointment, and in every ſubſequent term of twelve months ſhall notify the ſaid collector to appear at ſuch time and place as they may judge proper for the purpoſe of making a final ſettlement for the year laſt paſt.

3 *Be it enacted*, That the commiſſioners aforeſaid ſhall have full power to require the clerk and treaſurer of the reſpective counties to lay before them a copy of ſuch papers as they may judge neceſſary ; and it ſhall further be the duty of the commiſſioners to make or cauſe to be made a full ſtatement of all the ſpecie and certificates collected within the year for which ſuch ſettlement is to be made, plainly diſtinguiſhing the amount of each, together with the diſburſements, to whom paid and for what purpoſe ; which ſtatement the ſaid commiſſioners ſhall cauſe to be poſted up in the court houſe of their reſpective counties.

4. *Be it enacted*, That there ſhall be a treaſurer appointed in each county whoſe duty it ſhall be to receive from the collectors, beſides ſpecie, jurors certificates and other certificates for which the county by law ſtands indebted, and for his ſervices done in receiving and diſburſing the ſame, together with the ſeveral duties neceſſary thereunto, ſhall receive five dollars for every hundred dollars ſo received and diſburſed.

5. *Be it enacted*, That if any clerk or treaſurer ſhall refuſe at any time to furniſh the commiſſioners with ſuch papers and vouchers as they may judge neceſſary for perfecting any ſettlement or ſettlements which by this act they are authorized to

make, then and in that caſe, the clerk or treaſurer ſo refuſing, ſhall forfeit and pay the ſum of five hundred dollars, to be ſued for in the name of the chairman of the court before any juriſdiction having cognizance thereof, and applied to the uſe of the county wherein ſuch failure was made.

6. *Be it enacted*, That if any collector or treaſurer ſhall refuſe at any time to receive in payment of county tax ſuch certificates as are mentioned in the third ſection of this act, or refuſe to pay or ſettle as by this act directed, he or they ſo refuſing, ſhall forfeit and pay the ſum of five hundred dollars, to be recovered and applied as heretofore directed, and if the commiſſioners or either of them ſhall fail at any time to fulfil the duties enjoined by this act, he or they for ſuch failure ſhall forfeit and pay the ſum of one hundred dollars to be recovered and applied as by this act directed.

7. *Be it enacted*, That in caſe of death, refuſal to act, or removal out of the county of either of the commiſſioners ſo appointed, it ſhall be lawful for the ſaid court to proceed to fill ſuch vacancy in the ſame manner as before directed, which commiſſioner or commiſſioners ſhall have and exerciſe all the powers and authorities as the original commiſſioners had and exerciſed.

8. *Be it enacted*, That it ſhall be lawful for the ſeveral courts aforeſaid, to make ſuch annual compenſation to the commiſſioners as they may judge adequate to their ſervices.

9. *Be it enacted*, That where any military fines have been collected in any county within this ſtate and remain unaccounted for, it ſhall be the duty of the treaſurer of each and every county, and he is hereby authorized, on application made to him for that purpoſe, to notify the perſon or perſons, who he may be informed hath military fines in his or their hands, to appear at a certain time and place in ſaid county within twenty days from and after ſuch notification, then and there to account for and pay ſuch fines to the ſaid treaſurer, whoſe receipt for the ſame ſhall be a ſufficient voucher for ſuch ſums ſo paid.

10. *Be it enacted*, That in caſe any perſon in whoſe hands ſuch fines may remain ſhall neglect or refuſe to appear at the time and place appointed by the ſaid treaſurer, or in caſe he or they ſhall attend and refuſe to account for the ſaid fines, then and in that caſe it ſhall be the duty of the ſaid treaſurer, to inſtitute ſuit or ſuits in his own name, by action of debt, as in other caſes againſt the perſon ſo holding the ſaid fines, and refuſing to account therefor: *Provided*, That the monies ſo received ſhall be appropriated to the uſe of the reſpective regiments in which ſuch fines ſhall have been collected.

11. *Be it enacted*, That where any military fine has been aſſeſſed prior to this date and not collected, then and in that caſe the ſheriff or other perſon collecting ſuch fines is hereby directed to deſiſt from collecting any ſuch military fines, any law, uſage, or cuſtom, to the contrary notwithſtanding. And if any perſon appointed to collect any ſuch fines as aforeſaid, ſhall hereafter preſume to collect contrary to this act, ſuch perſon on conviction ſhall forfeit and pay one hundred dollars.

CHAP. XLI.

An act to provide for the ſafe keeping of the perſons and property of idiots and lunatics, and to repeal the third ſection of an act, entitled "an act to prevent unjuſt appeals, and to empower the county courts in this ſtate, to provide for the ſafe keeping of the eſtates of idiots and lunatics," paſſed at Hillſborough, one thouſand ſeven hundred and eighty-four.

1. *Be it enacted by the general aſſembly of the ſtate of Tenneſſee*, That it ſhall be the duty of the ſeveral county courts within this ſtate, upon information made, that any idiot or lunatic does reſide within the juriſdiction thereof, to order the ſheriff of ſaid county to ſummon a jury, conſiſting of twelve freeholders, to aſcertain by inquiſition ſuch idiocy or lunacy, and make return thereof to the next ſucceeding court; and alſo ſuch lands and chattels (if any there be,) as the ſaid idiot or lunatic, ſo found as aforeſaid, ſhall hold or poſſeſs, at the time of taking ſuch inquiſition, and on return thereof, ſuch court ſhall appoint him, her or them a guardian or guardians, firſt taking bond with approved ſecurity for the faithful adminiſtration of the truſt repoſed in them; and the guardian or guardians thus appointed, ſhall have the ſame powers, and be under the ſame rules and reſtrictions, as guardians appointed for orphans, and continue to exerciſe his appointment during the pleaſure of the court.

2. *Be it enacted*, That where any idiot or lunatic ſhall be found not to hold or poſſeſs any lands or chattels not ſufficient for his, her or their maintainance, then and in that caſe, the court ſhall proceed to let out ſuch idiot or lunatic for the term of one year to the loweſt bidder, in the ſame manner as in caſes of other poor perſons: *Provided always*, That where the jury from their own knowledge, or information of others, diſcover any apparent danger of violence being offered to the life or property of any perſon, ſuch jury ſhall report accordingly, and the court ſhall be bound without delay, to let out ſuch idiot or lunatic, for the term of one year, to the loweſt bidder, taking bond and ſecurity for the ſafe keeping and providing with ſufficient diet, waſhing, and apparel, for the term aforeſaid; and in caſe any idiot or lunatic, in the receſs of court, ſhould offer violence as aforeſaid, it ſhall be lawful for any three juſtices of the peace, upon due proof thereof being made, to commit ſuch lunatic or idiot, to the jail of the county in which the offence was committed, where he, ſhe, or they ſhall remain, until the court take ſuch order as appears ſtrictly conſiſtent with the law, the happineſs and ſecurity of the community; *Provided alſo*, That the party ſhall be liable to bail as in other caſes.

3. *Be it enacted*, That the third ſection of an act, entitled, "an act to prevent unjuſt appeals, and empower the county courts in this ſtate, to provide for the ſafe keeping of the eſtates of idiots or lunatics," paſſed at Hillſborough, one thouſand ſeven hundred and eighty-four, be, and the ſame is hereby repealed.

[illegible]A P. XLIII.

An act preſcribing what ſhall be the legal probate of deeds and conveyances of lands and mortgages, where ſuch probate ſhall be made without the limits of this ſtate, and within the limits of the United States, and for other purpoſes.

3. *Be it enacted*, That any grantee or other perſon claiming by deed of conveyance, founded upon a grant, hath, by virtue thereof, obtained peaceable poſſeſſion of any tract of land, and ſhall, at any time thereafter, be diſpoſſeſſed by due courſe of law, or otherwiſe put out of poſſeſſion, without his, her or their conſent, firſt had and obtained, that then, in that caſe, the perſon ſo diſpoſſeſſed, ſhall be entitled to recover, at common law, from the perſon to whoſe uſe the diſpoſſeſſion was ſo made, the value of the improvements which he, ſhe, or they may have made on the ſaid land.

And whereas doubts have ariſen with reſpect to the true conſtruction of the preſent exiſting laws, reſpecting ſeven years peaceable poſſeſſion,

4. *Be it enacted*, That in all caſes, where any perſon or perſons ſhall have had ſeven years peaceable poſſeſſion of any land, by virtue of a grant or deed of conveyance founded upon a grant, and no legal claim by ſuit, in law, by ſuch ſet up to ſaid land within the above ſaid term, that then and in that caſe, the perſon or perſons ſo holding poſſeſſion as aforeſaid ſhall be entitled to hold poſſeſſion in preference to all other claimants, ſuch quantity of land as ſhall be ſpecified in his, her or their ſaid grant, deed of conveyance, founded on a grant, as aforeſaid, and any perſon or perſons, who ſhall neglect for the ſaid term of ſeven years, from the time of ſuch peaceable poſſeſſion having been obtained, to avail themſelves of the benefit of any title or legal claim which he, ſhe or they have to any lands within this ſtate, ſhall, and is hereby declared, to be forever barred: *Provided*, nothing contained in this act ſhall, in any manner, tend to affect or injure the rights of minors, feme coverts, idiots or lunatics, any law, uſage, or cuſtom to the contrary notwithſtanding.

CHAP. XLV.

An act directing the mode of ſuing and proſecuting for certain offences therein deſcribed.

WHEREAS it hath been found by experience, that the ſeveral counties in this ſtate have been put to great and unneceſſary expence in paying the attendance of jurors at the ſuperior courts, on account of the many actions and indictments, for aſſault, battery, wounding, and impriſonment,

Be it enacted by the General Aſſembly of the state of Tenneſſee, That from and after the paſſing of this act all actions of ſlander, actions, indictments or preſentments, for aſſault, battary, or impriſonment, ſhall be commenced [illegible] the county courts, any law, uſage, or cuſtom to the contrary notwithſtanding: *Provided nevertheleſs*, That nothing in this act contained ſhall be ſo conſtrued as to bar or prevent the ſolicitor or attorney for the county, plaintiff or defendant in any caſe, from the right of an appeal to the ſuperior court of the diſtrict.

CHAP. XLVI.

An act to compel the owners of ſalt petre manufactories to encloſe their works, ſo as to prevent horſes and cattle from having acceſs thereunto.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That from and after the firſt day of December next, if any perſon or perſons ſhall carry on the manufacturing of ſalt petre, without firſt having their works lawfully encloſed, ſuch perſons ſo offending, ſhall upon conviction before any juriſdiction having cognizance thereof, forfeit and pay one hundred dollars, one half to the uſe of the county wherein ſuch offence was committed, and the other half to the perſon or perſons ſuing for the ſame.

2. *Be it enacted*, That if the owners of ſalt petre works, ſhould fail to comply with the requiſitions of this act, and the cattle and horſes belonging to any other perſon or perſons ſhould thereby be injured, ſuch owner or owners as aforeſaid, ſhall be further liable to an action on the caſe for damages at the ſuit of the perſon or perſons ſuſtaining ſuch injury.

1798.

LAWS OF TENNESSEE.

Paſſed at the ſecond ſeſſion of the ſecond General Aſſembly of the State of Tenneſſee, begun and held at Knoxville, on Monday, the third day of December, one thouſand ſeven hundred and ninety-eight.

CHAP. II.

An act reſpecting the admiſſion and licence of perſons to practice as attornies in the ſeveral courts in this ſtate.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That ſo much of the fourth ſection of an act, entitled, "an act to amend an act, eſtabliſhing courts of law and for regulating the proceedings therein," paſſed at the firſt ſeſſion of the general aſſembly of the territory of the United States of America ſouth of the river Ohio, as reſpects the reſidence of attornies, is hereby repealed and made void, any law, uſage or cuſtom to the contrary notwithſtanding.

2. *Be it enacted,* That from and after the paſſing of this act, all perſons who ſhall hereafter apply for admiſſion to practice as an attorney at law, ſhall undergo an examination before two or more judges of the ſuperior courts of law and equity for this ſtate; and if ſuch perſon ſo applying be found to poſſeſs a competent ſhare of law knowledge and be a perſon of upright character, ſuch judges ſhall grant him a licence [illegible] to practice in any court in this ſtate [illegible]

CHAP. IX.

An act reſpecting the ninth and twenty fourth ſections of an act, entitled, " an act aſcertaining what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for and paying public taxes," paſſed October the twenty-fifth, one thouſand ſeven hundred and ninety ſeven.

2. *Be it enacted,* That all double taxes hereafter ariſing and accruing under and by virtue of the ſaid ninth ſection, ſhall be collected, accounted for and paid in the ſame manner that public taxes are collected, accounted for and paid.

3. *Be it enacted,* That ſo much of the twenty fourth ſection of the ſaid act as comes within the purview and meaning of this act, ſhall be and the ſame is hereby repealed and made void, any law to the contrary notwithſtanding.

CHAP. XI.

An act to repeal the ſecond ſection of an act entitled, " an act for laying and collecting county taxes," ſo far as reſpects Hawkins county.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That the ſecond ſection of an act, entitled, " an act for laying and collecting county taxes, be and the ſame is hereby repealed and made void ſo far as it reſpects Hawkins county.

2. *Be it enacted,* That this act ſhall be in force from and after the paſſing thereof.

CHAP. XIX.

An act reſpecting dollars and cents and contracts and the manner of keeping accounts ſo far as reſpects the currency in which contracts ſhall be made and accounts kept.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That all verdicts and judgments in courts of record, and by juſtices of the peace out of court, ſhall be rendered in dollars and cents, or ſuch parts thereof as the nature of the caſe may require; and all executions thereon, and all bills of coſts ſhall iſſue accordingly.

CHAP. XXIII.

An act authoriſing the governor of this ſtate to aſſign and transfer adminiſtration bonds of the deſcription therein mentioned to the perſon or perſons thereto entitled.

Whereas there are many bonds called adminiſtration bonds given and executed by adminiſtrators and their ſecurities during the time this ſtate was part of the ſtate of North Carolina, made payable to the governor and his ſucceſſors in office of the ſaid laſt mentioned ſtate; and it being expedient that any perſon or perſons who may deem themſelves injured in any matter or thing, appertaining to ſuch adminiſtration, and who may be entitled to a remedy for ſuch injury, ſhould have ſuch bond or bonds aſſigned and transferred to him, her, or them, therefore:

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the clerk of the court of any county in this ſtate, in whoſe office any ſuch adminiſtration bond may be filed, ſhall on application of the party entitled thereto and requeſting the ſame, give a true, perfect, and atteſted copy of any ſuch bond; and for the ſame the clerk may demand the ſum of fifty cents.

2. *Be it enacted*, That the governor for the time being, of this ſtate, ſhall and may exerciſe all and every power of aſſigning and transferring ſuch adminiſtration bond to the party entitled thereto, on exhibition of ſuch atteſted copy in as full and ample manner to all intents and purpoſes as the governor of the ſtate of North Carolina was by law authoriſed to do; and ſuch aſſignment and transfer ſhall be good and ſufficient in law, any law to the contrary notwithſtanding.

3. *Be it enacted*, That an atteſted copy, as by this act directed, of any adminiſtration bond with ſuch aſſignment and transfer thereto annexed ſhall be taken as evidence of the bond given by any adminiſtrator or adminiſtrators, and his her or their ſecurities; and the parties injured ſhall and may have and maintain his, her or their action thereon, in his, her or their own names, and proceed to judgment and execution: *Provided nevertheleſs*, That nothing in this act contained ſhall be conſtrued to prevent either party, plaintiff or defendent, in caſe ſuch copy ſhould be conteſted from having a ſubpœna to bring with him the original bond of which ſuch atteſted copy was given, for the clerk of the court who iſſued the ſaid conteſted copy.

4. *Be it enacted*, That this act ſhall be in force from and after the paſſing thereof.

1799

LAWS OF TENNESSEE.

Paſſed at the firſt ſeſſion of the third General Aſſembly of the ſtate of Tenneſſee, begun and held at Knoxville, on Monday, the ſixteenth day of September, one thouſand ſeven hundred and ninety nine.

CHAP. IV.

An act to authoriſe the ſeveral county courts to exempt perſons rendered incapable of labor from the payment of taxes.

1. *Be it enacted by the General Aſſembly of the ſtate of Tenneſſee,* That whenever any perſon ſhall be rendered incapable of labor, the court of the county whereof ſuch perſon ſhall be an inhabitant, upon ſufficient teſtimony thereof produced before them ſhall have power to exempt ſuch perſon or perſons from the payment of any poll tax on himſelf, and cauſe the ſame to be entered of record by the clerk of ſaid court.

2. *Be it enacted,* That when any perſon ſhall wiſh to be exempted from the payment of taxes as by this act directed, it ſhall be the duty of the ſeveral county courts reſpectively, at the firſt ſeſſion in each year, to hear and determine all caſes that may come before them, and there ſhall be at leaſt ten or a majority of the acting juſtices of ſaid county preſent when ſuch application and determination ſhall be made.

CHAP. VII.

An act for the better accounting for county tax.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That if any collector of county tax ſhall neglect or refuſe to pay unto the county treaſurer the amount of the tax he is charged with the collection of, againſt the firſt day of January next ſucceeding the time of levying the tax, as well thoſe now due as thoſe to become due, it ſhall be the duty of of the county treaſurer, and he is hereby required and authoriſed, to enter up judgment againſt ſuch delinquent and his ſecurities, for the balance that may be due by ſaid collector, in the county court to which they belong; which judgment is hereby declared good and valid in law; and execution ſhall iſſue thereon as if ſaid collector and ſecurities had been proſecuted to judgment in the uſual way: *Provided always,* Such collector ſhall have credit for all ſuch deficiencies of payment in his collection as ſhall be certified by the court.

2. *Be it enacted,* That it ſhall be the duty of the commiſſioners appointed by court to ſettle with the county collectors, alſo to ſettle yearly with the county treaſurers, and make a

report of the ſtate of the treaſury of their county, to have the ſame power to call on the clerk of the court, and others, for papers and information, and to publiſh the reſult in the ſame manner as required by law, to do in ſettlement with collectors, and for which the ſaid commiſſioners ſhall be allowed by the court, as for their other ſervices.

3. *Be it enacted,* That if it ſhall appear that the county treaſurer or treaſurers have failed, or ſhall fail, at any time, to pay the public monies in his or their hands, to thoſe authoriſed to apply for and receive the ſame, always giving preference to the oldeſt order or claim, or hath neglected, or ſhall neglect in any caſe, to call to account as by this act directed, any delinquent therein deſcribed, by which the county revenue may ſuffer loſs, then and in ſuch caſe the treaſurer or treaſurers ſhall be accountable for the ſums due by ſuch delinquents, to all intents and purpoſes as if the ſame had been paid into his or their hands.

CHAP. VIII.

An act to ſuppreſs exceſſive gamings.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the firſt day of May next, every promiſe, agreement, note, bill, bond, or other contract, to pay, deliver, or ſecure money or other thing won or obtained by playing at cards, dice, billiards, horſe racing, or any other species of gaming whatſoever, or by wagering or betting on either of the parties, who ſhall play at ſuch games, or run ſuch races, or to repay or ſecure money or other thing lent or advanced for that purpoſe, or lent or advanced at the time of ſuch gaming, playing, betting, laying, or adventuring, ſhall be void, and every conveyance or leaſe of land, tenement and hereditaments ſold, demiſed or mortgaged, and every ſale, mortgage or other transfer of ſlaves, or other perſonal eſtate, to any perſon, or for his uſe to ſatisfy or ſecure money ſo won, lent or advanced, on due proof thereof made before any juriſdiction having cognizance thereof, ſhall be and the ſame is hereby declared void.

2. *Be it enated,* That if any perſon or perſons, after the firſt day of May next, ſhall encourage or promote any match or matches or ſhall play in any match or matches at cards, dice, or any other game of hazard or addreſs, for money or other valuable thing, every ſuch perſon ſo offending, ſhall upon conviction thereof, before any juſtice of the peace of the county wherein ſuch offence ſhall have been committed, forfeit and pay the ſum of five dollars for every ſuch offence.

3. And whereas games of addreſs, hazard, and all other kinds of gaming are frequently promoted and held at or near to taverns, or other public houſes, as well licenced as tipling houſes, and the houſes of perſons who retail ſpirituous liquors or other ſtrong drinks: *Therefore be it enacted,* That if any tavern keeper, public houſe keeper, keeper of a tipling houſe, or other re-

1792 tailer of wine, ſpiritous, or other ſtrong drink, ſhall incite, promote, or encourage any games of addreſs, hazard, or any other gaming whatſoever, whereat any money or other valuable thing ſhall be betted, ſtaked, ſtriven for, won or loſt, or ſhall knowingly furniſh any wines, ſpiritous or other ſtrong drink, to any of the perſons who ſhall be attending upon any game of addreſs, hazard, or any other gaming whatſoever, who ſhall be legally thereof convicted before any juſtice of the peace as aforeſaid, ſhall forfeit and pay for every ſuch offence the ſum of ten dollars; and if ſuch convict be a licenced public houſe keeper, or retailer of wines, ſpiritous or other ſtrong drink, the licence of ſuch perſon ſhall be thereupon null and void, and ſuch offender ſhall be incapable of being again licenced in like manner for one year thereafter: *Provided always*, That where any ſuch licenced public houſe keeper or retailer as aforeſaid, who ſhall be convicted as aforeſaid, before any one juſtice or juſtices, ſhall think him or herſelf agrieved by ſuch conviction, it ſhall and may be lawful for ſuch licenced public houſe keeper or retailer, to appeal to the next county court wherein ſuch offence was committed (and not after), which ſaid court ſhall proceed thereupon as in all other appeals from juſtices of the peace.

4. *Be it enacted*, That if any perſon or perſons ſhall loſe any money or other valuable thing, at or upon any game of addreſs or of hazard, or on any other play or game whatever, and ſhall pay or deliver the ſame or any part thereof, the perſon or perſons ſo loſing and paying or delivering the ſame, ſhall have a right within ninety days then next or thereafter to ſue for and recover the money or goods ſo loſt and paid or delivered, or any part thereof, from the reſpective winner or winners thereof, with coſts of ſuit, by action of debt or caſe, for the value of the money or thing ſo loſt, founded on this act, to be proſecuted in any court of record having cognizance thereof, or before any juſtice of the peace, if the ſum ſo won is under twenty dollars, ſubject nevertheleſs, to an appeal as in all other caſes; and in which action it ſhall be ſufficient for the plaintiff or plaintiffs to alledge that the defendant or defendants is or are indebted to him, her or them, or hath or have received to his, her or their uſe, the money ſo loſt and paid, or converted the goods ſo won of him, her or them, to the uſe of the defendant or defendants, whereby the action of the plaintiff or plaintiffs accrued to him, her or them, according to the form of this act.

5. *Be it enacted*, That any perſon inſtituting a ſuit before any juſtice of the peace, or in any court of record within this ſtate, for the recovery of money won, lent or advanced at any ſpecies of gaming whatſoever, on due proof being made thereof, ſhall forfeit and pay the ſum of one hundred dollars, recoverable in any court having cognizance thereof, one half to him who will ſue for the ſame, the other half to the county wherein ſuch cauſe ſhall originate.

6. *Be it enacted*, That every act or parts of acts, coming within the purview and meaning of this act, is hereby repealed and declared void.

CHAP. X.

An act to prevent the wilful and malicious killing of ſlaves.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That if any perſon or perſons ſhall wilfully or maliciouſly with malice aforethought, kill any negro or mulatto ſlave whatſoever, on due and legal conviction thereof, in any ſuperior court of the diſtrict wherein ſuch offence ſhall have been committed, be deemed guilty of murder, as if ſuch perſon ſo killed, had been a free man, and ſhall ſuffer death without benefit of clergy, any law, uſage or cuſtom to the contrary notwithſtanding.

2. *Be it enacted,* That if the ſlave ſo killed ſhall be the property of another and not of the offender, his goods, chattels, lands and tenements, on conviction thereof, ſhall be liable to the payment of the value of ſuch ſlave ſo killed, to be aſſeſſed by a jury of the county wherein ſuch ſlave ſhall have been killed. *Provided always,* That this act ſhall not extend to any perſon killing any ſlave outlawed by virtue of an act of the general aſſembly of this ſtate, or to any ſlave in the act of reſiſtance to his lawful owner or maſter, or to any ſlave dying under moderate correction.

CHAP. XI.

An act to amend the laws now in force, preſcribing the mode of making partition of lands.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That where any perſon or perſons now do, or hereafter ſhall hold any lands, tenements or hereditaments, in fee ſimple, or for a leſs eſtate, as tenant or tenants in common, or as joint tenants, or in coparcenary, or other undivided eſtate, and any one or more of ſuch tenant or tenants in common, joint tenant or tenant by coparcenary, or otherwiſe, is deſirous of dividing and making partition of the ſame, ſo as to hold his or their ſhare therein divided and in ſeveralty, that ſuch perſon or perſons being ſo deſirous of making ſuch partition and diviſion, ſhall previous to his or their preſenting a petition for that purpoſe to any court having juriſdiction thereof advertiſe and publiſh ſuch his or their intention, three different times at leaſt, in ſome one of the newſpapers printed within this ſtate, or ſhall cauſe to be ſerved on every perſon therein concerned, a notice in writing, at leaſt ten days previous to the time of preſenting ſuch petition, ſtating the time intended for preſenting it, and the court to which ſuch petition is to be preſented. And no petition ſhall be preſented for the purpoſe aforeſaid, until ſix months after ſuch publication, or incaſe of a ſervice of notice, ten days after ſuch ſervice.

2. *Be it enacted,* That ſuch publication or notice ſhall be conſidered as ſufficient information to all perſons concerned in ſuch lands and tenements, as tenants in manner aforeſaid,

and a partition made in conſequence thereof, ſhall be forever binding on all and every perſon or perſons who ſhall or may have claim or title to any ſuch lands or parts thereof as tenant in common, joint tenant or tenant in coparcenary, or other undivided eſtate.

3. *Be it enacted*, That all laws and parts of laws heretofore made or in force within this ſtate, directing or appointing the mode of making partition or diviſion into ſeveralty of any undivided intereſt, in any eſtate real, in fee ſimple or otherwiſe, are hereby repealed and made void, except one law paſſed by the ſtate of North Carolina, in the year one thouſand ſeven hundred and eighty ſeven, entitled, "An act authoriſing and empowering the county courts of pleas and quarter ſeſſions to divide and appropiate the real eſtates of inteſtates," and alſo, one other act paſſed by the ſtate of North Carolina, in the year one thouſand ſeven hurdred and eighty nine, entitled, "An act to amend and enlarge an act paſſed at Tarborough in the year one thouſand ſeven hundred and eighty ſeven, entitled an act authoriſing and empowering the county court of pleas and quarter ſeſſions to divide and appropriate the real eſtate of inteſtates," which two laſt mentioned laws, are hereby declared to be in full force except as herein altered or amended.

CHAP. XII.

An act for the limitation of writs of error.

1. *Be it enacted by the general aſſembly of the state of Tenneſſee*, That no writ of error ſhall be granted or allowed, to reverſe any judgment or decree of any court in this ſtate, unleſs the ſame be ſued for within two years from the ratification of this act, or within two years next after the judgment or decree ſhall have been rendered or given as aforeſaid, any law to the contrary notwithſtanding. *Provided nevertheleſs*, That infants, feme coverts, perſons non compos mentis, impriſoned, beyond ſeas, or perſons in the military ſervice of the United States, may proſecute writs of error, ſo as the ſame be ſued for within two years next after their coming to full age, diſcoveture, ſound mind, at large, returned from beyond ſeas, or diſcharged from the military ſervice of the United States, in the ſame manner as perſons having no ſuch impediment might have done.

CHAP. XIV.

An act to amend the law now in force in this ſtate, for ſelling lands under execution.

WHEREAS great injuries may ariſe, and inſecurity in land titles be produced from the preſent mode in uſe, of ſelling lands under execution, and ſuch ſales may be ſo ſecretly and clandeſtinely conducted, that real eſtates may be ſold without any regard to their value, and fair claimants may be defrauded out of their juſt rights by judgments and executions which have long laid dormant: For remedy whereof,

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That in every ſale hereafter made of any lands or tenements, under any execution hereafter iſsued and levied, or to be iſsued and levied on ſuch land and tenements, where the defendant is in actual poſseſsion and occupation of the land ſo executed, it ſhall be the duty of the ſheriff or coroner levying ſuch execution, to ſerve the defendant with written notice, ſtating that the ſaid execution is levied on the ſaid land, and mentioning the time and place appointed, or to be appointed, for the ſale thereof, at leaſt twenty day previous thereto; and in every caſe where the defendant or defendants in execution are not in actual poſseſsion or occupation of ſuch land and tenements as ſhall be ſo executed, it ſhall be the duty of the ſheriff or coroner, to whoſe hands ſuch execution ſhall come, to advertiſe and publiſh, at leaſt three different times, in ſome newspaper printed within this ſtate, the tract or tracts of lands and tenements on which he may have levied ſuch execution, the firſt of which publication, ſhall be made at leaſt *forty days* previous to the ſale of ſuch lands and tenements, and ſhall mention the name of the plaintiff and defendant, and deſcribe the ſaid lands and tenements particularly, and mention the time and place appointed for the ſale thereof; and the coſt of ſuch publication ſhall be recovered and paid out of the ſale of ſuch land, or ſatisfied by the defendant.

2. *Be it enacted*, That no execution on lands ſhall be levied, or ſale of lands or tenements under execution ſhall be made, which may affect the titles of any perſon purchaſing bona fide from, through, or under a defendant in any judgment, unleſs ſuch execution ſhall be iſsued and levied on ſuch land, and ſale thereof be made in twelve months from the time of the ſaid judgment being rendered; and every ſale of land or tenements under execution, made contrary to the proviſions of this act, ſhall be null and void to all intents and purpoſes: *Provided always*, That nothing herein contained, ſhall be conſtrued to affect the laws now in force, directing the ſales of lands for the payment of taxes or levies.

3. *Be it enacted*, That in all caſes where an execution ſhall be levied on any lands and tenements, it ſhall and may be lawful for the defendant in execution, to divide the lands and tenements executed or levied on, into ſuch diviſions as he ſhall judge proper; and on the day of ſale, if the execution be not previouſly ſatisfied, to ſell ſuch lands or tenements, a diviſion at ſuch a time, according to the plan of diviſion delivered to him by the defendant in execution, until ſaid execution, with coſts of ſale, is fully ſatisfied and paid, and no more: *Provided*, That if the defendant in execution ſhall not deliver to the ſheriff or coroner a plan or diviſion, ſubſcribed with his proper name, and bearing ſome date ſubſequent to the date of the advertiſement, previous to the day of ſale, or on the day of ſale, at or before twelve o'clock, that it ſhall be the duty of the ſheriff or coroner to ſell the lands ſo executed, without any diviſion.

4. *Be it enacted*, That this act ſhall not be in force and uſe until the firſt day of February next.

CHAP. XVI.

An act to amend an act, entitled, "An act to aſcertain what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for and paying public taxes," paſſed at Knoxville, on the twenty-fifth day of October one thouſand ſeven hundred and ninety-ſeven.

1\. *Be it enacted by the General Aſſembly of the ſtate of Tenneſſee,* That from & after the paſſing of this act, no ſheriff or collector of public taxes ſhall obtain & receive a credit with the treaſurer of his diſtrict, for any inſolvencies or deficiencies of payment in the collections of the public taxes in his county, without firſt making oath in open court, that the liſt of inſolvents by him exhibited, is juſt and true to the beſt of his knowledge, and that he had uſed all legal ways and means in his power to collect the taxes contained in the ſaid liſt, from the time he received the tax liſt of his county from the clerk thereof, and that he could not find any property to enable him to collect the ſaid taxes; and on ſuch oath being made, the court of the county in which ſuch ſheriff or collector reſides, ſhall order their clerk to certify to the public treaſurer, that they have allowed the collector of the public taxes in their county, a credit for the amount of the liſt ſo exhibited and ſworn to, or ſuch part thereof as the court ſhall deem reaſonable and juſt, plainly diſtinguiſhing the year for which the credit is to be allowed.

2\. *Be it enacted,* That it ſhall and may be lawful, from and after the paſſing of this act, for the public treaſurers to enter up judgments againſt all delinquent collectors of public taxes and their ſecurities, in the ſuperior court for the diſtrict in which the treaſury is kept, and executions ſhall iſſue in manner heretofore preſcribed by law.

CHAP. XVII.

An act to preſerve order in conducting elections.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That if any perſon or perſons ſhall by force or violence break up any election, by aſſaulting the officers thereof, depriving them of the ballot box, or uſing others forcible or violent means to prevent an election from being fairly and legally conducted, ſuch perſon or perſons, his or their aiders and abettors, ſhall be adjudged guilty of a miſdemeanor, and upon conviction, ſhall ſuffer three months confinement in jail, there to remain without bail or mainprize, and until he pays ſuch fine as the court before whom ſuch conviction is made ſhall judge proper; provided it ſhall not exceed fifty dollars, and all coſts and charges.

CHAP. XXI.

An act to ſuſpend the ſecond ſection of an act, entitled, "an act reſpecting dollars and cents, and contracts, and the manner of keeping accounts," ſo far as reſpects the currency in which contracts ſhall be made and accounts kept.

Be it enacted by the General Aſſembly of the State of Tenneſſee. That the ſecond ſection of the above recited act is ſuſpended until the next ſtated general aſſembly.

CHAP. XXIII.

An act giving original and concurrent juriſdiction to the ſuperior courts of law, of all indictments for aſſaults and batteries committed during term time, and within the bounds therein mentioned.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the paſſing of this act, the ſuperior courts throughout this ſtate ſhall have original and concurrent juriſdiction with the county courts, of all indictments for aſſaults and batteries committed during the term of ſaid courts, and within the bounds of ſaid town wherein ſuch ſuperior courts are held, any law, uſage, or cuſtom to the contrary notwithſtanding.

CHAP. XXV.

An act authoriſing conſtables to levy attachments for ſums above the juriſdiction of a ſingle magiſtrate.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing of this act, conſtables ſhall on all occaſions have full power and authority to levy attachments where debtors are about to abſcond or remove, ſo as to evade the ordinary proceſs of law, and a true return thereof to make to the next county court, in as full and ample a manner as ſheriffs might or could do, any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. XXVII.

An act authoriſing the ſuperior and county courts to make allowances for ſervices herein mentioned.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That it ſhall be the duty of each court, on due proof being made of ſervices done, or neceſſary expences incurred, in moving priſoners from any jail to the jail of ſuch court, to examine ſuch accounts, and make ſuch reaſonable allowances as they may think proper, and order the ſame to be paid out of the fines and forfeitures ariſing in ſaid court.

2. *Be it enacted,* Where any jailer has or may hereafter keep a priſoner or priſoners, who have been confined in any diſtrict or county jail, and the ſame has been releaſed by legal

authority without payment of coſts, the ſuperior or county courts are hereby authoriſed to examine ſaid claim or claims, and if juſt to iſſue a warrant to the county truſtee to pay ſaid compt.

CHAP. XXVIII.

An act to prevent haboring or trading with ſlaves.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That if any citizen of this ſtate ſhall trade with any ſlave, without a paſs from his or her maſter, miſtreſs or overſeer, expreſſing the time when, and the buſineſs for which they go, every perſon ſo offending ſhall for every ſuch offence, forfeit and pay to the owner of ſuch ſlave the ſum of ten dollars, recoverable by action of debt before any juſtice of the peace in the county in which ſuch offence ſhall be committed; and if any ſlave ſhall produce a forged paſs or certificate, he or ſhe ſo offending, ſhall on conviction, ſuffer ſuch corporal puniſhment as a juſtice of the peace ſhall think proper to inflict, not exceeding thirty nine laſhes.

2. *Be it enacted*, That if any perſon ſhall hereafter intice or perſuade any ſervant or ſlave to abſent him or herſelf from his or her owner's ſervice, or ſhall harbor or maintain under any pretence whatever, any runaway ſervant or ſlave, ſuch perſon ſhall for every ſuch offence forfeit and pay to the owner of ſuch ſervant or ſlave, the ſum of fifty dollars, to be recovered by action of debt, before any juſtice of the peace within the county where ſuch offence ſhall be committed, and be further liable to ſaid owner in an action of damage.

CHAP. XXX.

An act to direct the manner in which the ſeveral clerks and maſters of the courts of equity, clerks of the ſuperior courts of law, clerks of the county courts and the regiſter of each and every county, ſhall ſettle with the treaſurer of their reſpective diſtricts, for the public taxes by them collected.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That the ſeveral clerks and maſters of the courts of equity, the clerks of the ſuperior courts of law, and the clerks of the ſeveral county courts, ſhall collect the following taxes for the uſe of the ſtate, viz: On each ſuit in equity two dollars and fifty cents; on each ſuit in a ſuperior court of law one dollar and twenty five cents; on each ſuit in a county court ſixty two and a half cents; on each appeal from an inferior to a ſuperior court, or writs of certiorari, one dollar; on the probate or acknowledgment of each deed of conveyance for land at the rate of ten cents per hundred acres, except deeds for town lots, or parts thereof, which ſhall be taxed twenty cents on each deed, which ſhall be paid at the time the probate or

acknowledgment ſhall be made ; and on each ordinary licence five dollars, which ſhall be paid at the time licence is granted ; and the taxes on proceedings in equity, and ſuits at law, ſhall be taxed in the executions, when the ſuits are determined.

2. *Be it enacted*, That each of the before mentioned clerks ſhall return an account of the public taxes by him collected, plainly diſtinguiſhing the different ſuits, appeals, or writs of certiorari, probates or acknowledgments of deeds and ordinary licences, and annex thereto the amount of the taxes ariſing thereon, to the treaſurer of their diſtricts on or before the firſt day of October in each and every year, and ſhall at the ſame time pay into the hands of the ſaid treaſurer, the amount of the taxes by him collected, for which ſervices each clerk ſhall be entitled to receive from the ſaid treaſurer two and a half per cent. on the amount of the taxes by him ſo collected and paid into the public treaſury.

5. *Be it enacted*, That each clerk and regiſter in this act mentioned, ſhall, previous to his rendering an account of the public taxes by him collected, take and ſubſcribe the following oath, viz :

I A. B. do ſolemnly ſwear, (or affirm as the caſe may be) that the annexed ſtatement contains a juſt and true account of all the public taxes by me collected, which I am by law bound to pay into the public treaſury of my diſtrict, up to day of , which oath ſhall be annexed to the account rendered, and filed therewith in the office of the treaſurer.

6. *Be it enacted*, That if any clerk and maſter in equity, clerk of a ſuperior court of law, clerk of a county court, or regiſter of any county, ſhall at any time hereafter fail or neglect to render an account as herein before directed, of all public money by him collected under the authority of this act, or of any act or acts heretofore in uſe in this ſtate, and pay the ſame to the treaſurer, within two months after the time herein before ſpecified for that purpoſe, in each year, he ſhall forfeit and pay the ſum of fifty dollars for every ſuch offence, to the uſe of the ſtate, which, together with the coſts of proſecution, may be recovered by preſentment or indictment, in the ſuperior court of the diſtrict in which ſuch delinquent may reſide, & ſuch failure or neglect ſhall be deemed a miſdemeanor in office, and ſuch delinquent being thereof legally convicted, on preſentment or indictment in the ſuperior court of the diſtrict in which he reſides, which ſhall be ſufficient teſtimony to remove him from office, to which he ſhall not be again eligible for the term of ten years ; and any clerk and maſter in equity, clerk of a ſuperior court of law, clerk of a county court, or regiſter of any county, failing or neglecting as aforeſaid, he ſhall ſubject himſelf and his ſecurities to an action on his bond, in the name of the governor for the time being, for the uſe of the ſtate, to recover all ſuch money as may remain in the hands of ſuch delinquent, unaccounted for, together with twelve and an half per cent intereſt from the time ſuch money ſhould have been paid to the treaſurer and the coſts of ſuit ; ſaid action to be commenced in the ſuperior court of the diſtrict in which the

1799 office of the treaſurer to whom ſuch money ſhould have been paid is kept.

CHAP. XXXV.

An act to prevent the obſtruction of the navigation of the rivers therein mentioned.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That the navigation of the rivers Holſton, Nolichucky, French Broad, Clinch, Little Pigeon, Big Pigeon and Powell's river, to where they interſect with the Tenneſſee, ſhall be and remain open and free.

2. *Be it enacted,* That if any perſon or perſons have heretofore erected or ſhall hereafter erect any fiſh dam on the ſaid rivers, he ſhall open or leave open in the deepeſt part of the channel of ſaid rivers, where ſuch dam is or may be erected, one third of the width of ſaid channel and keep the ſame open.

3. *Be it enacted,* That if any perſon or perſons ſhall fail to comply with the above, he ſhall forfeit and pay for every ſuch offence, the ſum of two hundred dollars, to be recovered before any juriſdiction having cognizance thereof, one half to him who will ſue for the ſame, the other half to the county where ſuch offence ſhall be committed.

4. *Be it enacted,* That from and after the paſſing of this act, if any perſon or perſons make or cauſe to be made, any hedges, cut or cauſe to be cut any tree or trees in ſaid rivers, whereby the navigation of ſaid rivers ſhall be obſtructed, he or they ſo offending, ſhall for every ſuch offence, forfeit and pay the ſum of two hundred dollars, to be recovered by action of debt before any juriſdiction having cognizance thereof, one half to him who will ſue for the ſame, the other half to the uſe of the county wherein ſuch offence ſhall be committed.

CHAP. XLIII.

An act to prevent any juſtice of the peace from voting in his own election, for the office of clerk of the county court, ſheriff, regiſter, county truſtee, or ranger.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the paſſing of this act, it ſhall not be lawful for any juſtice of the peace being a candidate for the office of a county court clerk, ſheriff, regiſter, county truſtee, or ranger of his own county, to vote or ſit on the bench at ſuch election, any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. XLV.

An act for the inſpection of tobacco.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That no tobacco be exported from this ſtate, except the ſame

be packed in hogſheads or caſks, and inſpected according to the direction of this act.

2, *Be it enacted*, That public inſpections ſhall be held for tobacco at the places hereinafter mentioned, that is to ſay: Naſhville, Wayneſborough and Hayſborough, in Davidſon county, Cairo, and Jas. Saunders's, in Sumner county; Bledſoeſburgh in Smith county; Clarkeſville and Port Royal, in Montgomery county; Greeneville, in Greene county.

3. *Be it enacted*, That all tobacco which ſhall be brought to any of the above mentioned places ſhall be viewed, inſpected and examined by two perſons, to be thereto appointed in the following manner, that is to ſay; The courts of the ſeveral counties wherein a place for public inſpection may eſtabliſhed are hereby required, once in every year or oftener if neceſſary at their reſpective county courts, to appoint two fit and qualified perſons for each place of public inſpection.

4. *Be it enacted*, That every perſon appointed inſpector by virtue of this act ſhall before he enters upon the execution of his office, give bond, with good ſecurity, under the penalty of three thouſand dollars, payable to the governor for the time being, and his ſucceſſors, with condition for the true and faithful performance of his duty, according to the directions of this act, which ſaid bond ſhall be depoſited with the treaſurer of the diſtrict. And every ſuch inſpector ſhall take the following oath at the time he gives the bond, that is to ſay;—"You ſhall ſwear, that you will diligently and carefully examine and view all tobacco brought to the place of inſpection when you are appointed inſpector, and that not ſeparately and apart from your fellow, but in his preſence; and that you will not receive or paſs any tobacco that is not in your judgment ſound, well conditioned, merchantable,and clear of traſh, nor receive, paſs or ſtamp any tobacco hogſhead or caſks of tobacco contrary to the true intent and meaning of this act, nor refuſe any tobacco that in your judgment is ſound, well conditioned, merchantable and clear of traſh: But that you will in all things faithfully diſcharge your duty as inſpector of tobacco, according to the beſt of your ſkill and judgment, and according to the directions of this act, without favour, fear, affection or partiality. So help me God.

5, *Be it enacted*, That it ſhall be the duty of ſaid inſpectors to attend at the place for which they ſhall be appointed, whenever they ſhall be deſired ſo to do; and for every neglect to attend, ſhall forfeit and pay to the party grieved, two dollars, or ſhall be liable to an action on the caſe at the ſuit of the party grieved to recover all ſuch damages as he or they ſhall have ſuſtained, by occaſion of any ſuch neglect, together with his or their full coſts, at the election of the party.

6. *Be it enacted*, That all perſons having tobacco at the public ware houſes, may have equal juſtice, the inſpectors ſhall enter in a book to be kept for that purpoſe, the marks and owners' names of all tobacco brought to their reſpective warehouſes for inſpection, as the ſame ſhall be brought in, and ſhall view and inſpect the ſame in due turn, as it ſhall be entered in ſuch books without favour or partiality, and ſhall uncaſe and break

every hogſhead or caſk of tobacco brought them to be inſpected as aforeſaid ; and if they ſhall agree that the ſame is good, ſound, well conditioned, merchantable, and clear of traſh, then ſuch tobacco ſhall be weighed in ſcales, with weights of lawful ſtandard ; and the hogſhead or caſk, ſhall be ſtamped in the preſence of the ſaid inſpectors, or one of them, with the name of the warehouſe at which inſpected, and alſo the tare of the hogſhead or caſk, and quantity of neat tobacco therein contained ; and the inſpectors at ſuch warehouſes ſhall iſſue a receipt for each hogſhead of tobacco they ſhall paſs, if required by the owner, which receipt ſhall be in the form following :

River.

the —day —, 17—,

Sweet ſcented Oronoko

Loaf Stemmed Loaf

Marks. No. Groſs Tare. Nett.

Warehouſe.

RECEIVED of —— hogſheads, of crop tobacco, marks, numbers, weights and ſpecies, as per margin, to be delivered by us to the ſaid—or his order, for exportation, when demanded.

Witneſs our hands.

And no inſpector or inſpectors, ſhall under any pretence whatſoever, iſſue a receipt for any tobacco other than ſuch as ſhall be printed, in which the date ſhall be inſerted at full length. And if any inſpector or inſpectors, ſhall preſume to iſſue a receipt in any other manner than is hereby expreſſed, he or they, for every ſuch offence, ſhall forfeit and pay the ſum of two hundred dollars, to be recovered with coſt by any perſon who may ſue for the ſame,in any court of record within this ſtate, which receipts as aforeſaid ſhall be furniſhed by the inſpectors. And the inſpectors at each of the warehouſes eſtabliſhed by this act, ſhall conſtantly keep ſo many able hands at their reſpective warehouſes as the courts of the ſeveral counties wherein they lie, ſhall from time to time judge neceſſary and direct, for the purpoſe of taking care of all tobacco brought to ſuch warehouſe and ſtowing it away after the ſame ſhall be inſpected and ſtamped. And no inſpector ſhall by himſelf, his ſervant or any other perſon, either directly or indirectly, be concerned in picking any refuſed tobacco, unleſs it be his own property, on any pretence whatſoever, under the penalty of being forever thereafter diſabled from holding the office of inſpector.

7. *Be it enacted,* That for every hogſhead of tobacco brought to any of the warehouſes, which has been inſpected agreeable to this act, there ſhall be paid to the inſpectors attending at ſuch warehouſes, by the owner, at the time of demanding the ſame, the ſum of one dollar , and the owners of tobacco ſhall find and provide nails ſufficient for ſecuring and nailing thereof. And where they ſhall fail ſo to do, the inſpectors at ſuch warehouſe ſhall find nails for the purpoſe aforeſaid ; and ſhall be allowed and paid by the owner, twenty five cents for each hogſhead ſo ſecured. And for reſtraining the undue practice of mixing traſh with ſtemmed tobacco and preventing the packing tobacco in unſizable caſks, *Be it enacted,* That all ſtemed tobacco not laid ſtraight, whether the ſame be packed looſe

or in bundles ſhall be accounted unlawful tobacco; and that no tobacco packed in hogſheads which exceeds fifty inches in the length of the ſtave, or thirty two in inches at the head within the croaſe, making reaſonable allowance for the preſſing, which allowance ſhall not exceed two inches above the guage in the priſing head, ſhall be paſſed or received; but the owner of ſuch tobacco packed in caſks of greater dimenſions than before expreſſed, ſhall be obliged to repack the ſame in ſizable caſks at his own charge, before the ſame ſhall be received or ſtamped by the inſpectors.

8. And whereas there are no warehouſes yet built, and it is neceſſary for the ſafe keeping of ſaid tobacco, that ſome encouragement ſhould be given for the building of the ſame, *Be it enacted*, That if any perſon or perſons ſhall hereafter build at any of the places of inſpection aforeſaid, a warehouſe that ſhall be deemed by the court of the county ſufficient to keep ſaid tobacco in ſafety from injuries, ſaid perſon ſhall be allowed for ſtorage of each hogſhead for the firſt month at the rate of fifty cents, and for every ſucceeding month, at the rate of twenty five cents, which ſaid monies ſhall be paid by the perſon taking away ſaid tobacco, to the inſpectors, who ſhall be accountable to the owner of ſaid warehouſe for all ſuch monies ſo received.

CHAP. XLVII.

An act directing when juſtices of the peace ſhall qualify and to prevent their acting in counties in which they do not reſide.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee,* That any perſon who has heretofore, or who hereafter may be appointed a juſtice of the peace, and ſhall not qualify within twelve months after ſuch appointment, ſuch perſon ſhall not be allowed or admitted to qualify, unleſs reappointed.

2. *Be it enacted,* That where any juſtice of the peace hath removed himſelf, or ſhall hereafter remove himſelf out of the county for which he was appointed, and ſhall not return within twelve months to reſide therein, ſuch appointment ſhall be null and void; and in caſe any ſuch juſtices ſhall in any manner preſume to act in the county for which he was appointed, after ſuch removal, unleſs reappointed, he ſhall forfeit and pay for every ſuch offence the ſum of fifty dollars, to be recovered by action of debt, one half to the uſe of the ſtate, and the other half to the perſon ſuing for the ſame.

CHAP. XLVIII.

An act aſcertaining what officers ſhall in future attend the ſuperior courts.

Be it enacted by the General Aſsembly of the State of Tenneſsee, That from and after the paſſing of this act, the ſheriffs

of the different counties within this ſtate, ſhall not be bound to attend any of the ſuperior courts, after making their legal returns, except the ſheriff and his deputies of the county wherein ſuch ſuperior court ſhall be held, any law to the contrary notwithſtanding.

CHAP. LI.

An act to aſcertain the boundaries of land, and for perpetuating teſtimony.

WHEREAS great inconveniences may ariſe to the citizens of this ſtate in caſe of the death of the only perſon or perſons by whom the improvements, boundaries and ſpecialties of their entries can be eſtabliſhed, and on which their titles to land depend. For remedy whereof,

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee,* That it ſhall and may be lawful for the county court on application of any perſon or perſons claiming lands within the ſaid county, to order their clerk to iſſue a warrant directed to any three or more juſtices of the peace for ſaid county, or other fit perſons who ſhall be named commiſſioners, they or any two of them to attend ſuch perſon or perſons making application for the ſame at their improvements, boundaries or other ſpecial place called for in their entries or patents, and the commiſſioners ſo appointed ſhall have full power, and they are hereby required to qualify and examine ſuch witneſs or witneſſes, touching the premiſes as are required to come before them for that purpoſe, and ſuch examination to take in writing, which ſhall be ſigned by the deponent or deponents, and teſted by the commiſſioners, who ſhall tranſmit the ſame to the clerk of the ſaid court, and the ſaid clerk ſhall enter the ſame on record; and ſuch depoſition or depoſitions ſhall be as valid in a court of juſtice as the teſtimony of the deponent or deponents would have been if living, and taken in open court, and every perſon making application to the court for the purpoſe aforeſaid, ſhall have to attend him or them at his or their improvement, boundary or other ſpecial place called for in his entry or patent about to be proved, two or more diſintereſted perſons, being reſident of ſaid county who ſhall be preſent when the witneſs or witneſſes may be ſworn and examined, and it ſhall be lawful, if to the commiſſioners it appears neceſſary, to cauſe the trees to be marked afreſh, or do whatever elſe in their judgment may be deemed proper to perpetuate the improvement, boundary, or ſpecial place called for in the entry or patent on which the title to ſuch land may depend. *Provided however,* That any thing done in purſuance of this act, ſhall in no wiſe affect the title of the aforeſaid land or lands adjacent or interfering claims of any perſon or perſons, bodies politic or corporate, but only relate to the boundary of the land, improvement or ſpecial place called for in the ſaid entry or patent: *Provided alſo,* That no depoſition taken under the authority of this act, ſhall be admitted as teſtimony in any court in

this ſtate, if the deponent is living and can be had in open court.

2. *Be it enacted*, That any perſon or perſons applying for commiſſioners agreeable to this act, ſhall give thirty days previous notice, to the owner or owners, their agents or attorney, if known, who may have lands adjoining, of the time and place of meeting, to prove the boundary, improvement or ſpecial place called for in their entry or patent, and if the owner or owners, their agent or attorney, ſhould not be known, or reſide out of the ſtate, the applicant ſhall have the ſame twice publiſhed in the neareſt Gazette to which ſuch land ſhall be ſituate, deſcribing as nearly as may be, the improvement, boundary or ſpecial, called for in ſaid entry or patent, about to be proved.

3. *Be it enacted*, That when any perſon ſhall make application to the court, for the purpoſes above mentioned, it ſhall be the duty of the ſaid court, to direct their clerk to iſſue a ſubpœna for ſuch witneſs or witneſſes, as the applicant may deſire; and ſuch ſubpœna or ſubpœnas ſhall be directed to the ſheriff or conſtable of the county where ſuch witneſs or witneſſes may reſide; and the ſaid ſheriff or conſtable is hereby required to execute the ſame without delay, and make return thereof to the party at whoſe inſtance ſuch ſubpœna iſſued, which ſhall be returned by the ſaid party and filed in the clerk's office.

4. *Be it enacted*, That the clerk ſhall be allowed the ſum of thirty cents for iſſuing the warrant to the commiſſioners, and twenty five cents for recording each depoſition, and the commiſſioners ſhall each be allowed one dollar per day for their ſervices; each witneſs ſhall be allowed one dollar for every twenty-five miles he or they may travel in going to, and returning from the place he or they are ſummoned to attend, and ſeventy five cents for each day he or they may neceſſarily be detained at the place about to be proved, and ſhall be under the ſame penalties, and forfeitures and reſtrictions in caſe of his failing or refuſing to attend, and give teſtimony, he would, provided, he was ſummoned to attend court, the whole of the expence to be paid by the party applying to have the buſineſs done: *Provided nevertheleſs*, That nothing herein contained, ſhall be conſtrued to extend to the lands ſouth of French Broad, between the rivers Big Pigeon and Tenneſſee.

CHAP. LII.

An act to prevent abuſes in taking up ſtray horſes, cattle, hogs and ſheep.

WHEREAS it becomes difficult to recover ſtray horſes, cattle, ſheep and hogs, for want of ſome legal meaſures to effect the ſame: For remedy whereof,

1. *Be it enacted by the General Aſſembly of the ſtate of Tenneſſee*, That each and every ranger in this ſtate ſhall hold his office during good behaviour, and that every freeholder who ſhall take

up any ſtray horſe, mare or colt, neat cattle, hog or ſheep, ſhall within ten days after the taking up ſuch ſtray, the owner of ſuch ſtray or ſtrays being to him unknown, make information on oath or affirmation, before the ranger, or ſome juſtice of the peace of the county wherein ſuch ſtray or ſtrays, ſhall be ſo taken up, of the marks, brands and color of each and every ſuch ſtray or ſtrays; and that the ſame was taken up at his or her plantation, and that the marks or brands have not been altered, or defaced by means of, or to the knowledge of ſuch taker up, and that ſuch ſtray or ſtrays came to his or her plantation without his or her knowledge or procurement, whereupon ſuch ranger or juſtice of the peace is hereby required to iſſue a ſummons to any two freeholders of the neighborhood who ſhall take the following oath, to wit:

You do ſolemnly ſwear, (or affirm as the caſe may be) that you will well and truly view and appraiſe the ſtray or ſtrays here brought before you, without favour or partiality, to the beſt of your ſkill and judgment—So help you God.

Said oath to be adminiſtered by the ranger, or ſome juſtice of the peace of the county where ſuch ſtray or ſtrays have been taken up, and ſaid appraiſers ſhall view and appraiſe ſuch ſtray or ſtrays, and make return thereof to the ſaid ranger under their hands and ſeals, which appraiſement, with a particular and exact deſcription of the natural and artificial marks, brands, age and color, as near as can be aſcertained, of each and every ſuch ſtray or ſtrays, together with the time of taking up and place of abode of the perſon taking up the ſame, ſhall by ſuch ranger be entered in a book, to be by him kept for that purpoſe, and ſhall during the ſitting of the four next ſucceeding courts in the county where ſuch entry ſhall be made, put up an advertiſement at the court houſe on the firſt day of each term, deſcribing therein the kind, marks, brands and color of all ſtrays entered as aforeſaid.

2. *Be it enacted*, That the taker up of any horſe, mare, gelding or colt, ſhall take the ſame to the court houſe, or place of holding courts in each county, the ſecond day of each term, for one year after taking up ſuch eſtray or eſtrays, and ſecure ſuch in the pound or place where the juſtices of ſaid court ſhall direct, as provided for by this act, from twelve until four o'clock on the ſame days, and if any taker up of any horſe, mare, gelding or colt, ſhall fail to comply with the requiſitions of the before recited act, he or ſhe ſo failing, ſhall for every ſuch offence, forfeit and pay the ſum which ſaid eſtray or eſtrays was appraiſed to, to be recovered by action of debt, before any juriſdiction having cognizance thereof, to be applied to the uſe of the county, and it ſhall be the duty of the ranger to ſue for the ſame, who ſhall be allowed on all ſuch ſums ſo recovered and accounted for, five per cent. out of ſuch monies ſo recovered and received.

3. *Be it enacted*, That the property of every eſtray horſe, mare, gelding, colt, neat cattle, hog or ſheep, twelve months after ſuch appraiſement, and no property proved by the owner thereof, ſhall be deemed to be veſted in the perſon taking up the ſame: *Provided nevertheleſs*, That it ſhall and may be law-

ful where the former owner of any ſuch eſtray or eſtrays at any time within twelve months after ſuch appraiſement as aforeſaid, on proving his property by his own oath, or otherwiſe, to demand and recover the ſame eſtray or eſtrays, the claimant firſt paying the ranger's fee.

4. *Be it enacted*, That where the taker up of any ſuch eſtray or eſtrays, ſhall have been at any expence for keeping and maintaining the ſame, it ſhall and may be lawful for him to retain the ſame, until the owner thereof ſhall pay all ſuch expence, which ſhall be aſcertained in the following manner, that is to ſay: The taker up ſhall obtain from ſome juſtice of the peace, a warrant empowering three freeholders to be named by the ſaid juſtice, to declare on oath or affirmation, to examine witneſſes if neceſſary, how much ſaid taker up ought to demand and receive for the keeping and maintenance of ſuch eſtray or eſtrays, and ſuch ſum as ſhall by the ſaid freeholders or any two of them, be ſo declared, ſhall be the ſum which the taker up ſhall be entitled to demand and receive, before the owner can take the ſame out of his or her poſſeſſion.

5. *Be it enacted*, That at the expiration of twelve months, each and every perſon ſo taking up any ſtray or ſtrays, and not proved by the owner thereof, ſhall account for, and pay into the hands of the county treaſurer, one half of the appraiſed value of all ſuch ſtray or ſtrays, and in caſe any perſon taking up any ſuch ſtray or ſtrays according to the true intent and meaning of this act, ſhall neglect to account with the ſaid treaſurer for the ſame, he or ſhe ſo failing ſhall forfeit and pay the appraiſed value of all ſuch ſtray or ſtrays ſo taken up, to be recovered by action of debt before any juriſdiction having cognizance thereof, and it ſhall be the duty of the county treaſurer to commence ſuit reſpectively againſt all delinquents for the recovery of the ſame, who ſhall be entitled to receive five per cent. for his commiſſion on all monies ſo recovered and received, and the balance the ſaid treaſurer is hereby authoriſed to receive and account for, in the ſame manner as other county monies.

7. *Be it enacted*, That if after the appraiſement of any ſtray horſe, mare, gelding, colt, neat cattle, hog or ſheep, and entry thereof being made with the ranger as aforeſaid, ſhould happen to die or make its eſcape within twelve months after ſuch appraiſement, the perſon taking up ſuch ſtray or ſtrays ſhall not be chargeable for the ſame unleſs ſuch death or eſcape, be occaſioned by ill uſage, negligence or abuſe.

8. *Be it enated*, That if any perſon ſhall preſume to take up any ſuch ſtray or ſtrays, at any place other than his or her own land, or ſhall make uſe of any ſuch ſtray or ſtrays before the ſame ſhall be appraiſed as aforeſaid, he, ſhe or they ſo offending, ſhall forfeit for every ſuch offence, the ſum of twenty dollars, to the uſe of the informer, to be recovered by action of debt, with coſt, before any juriſdiction having cognizance thereof, and be further liable to an action on the caſe at the ſuit of the party aggrieved: *Provided nevertheless*, That nothing herein contained, ſhall extend to prevent any perſon from

1799 taking up any ſtray or ſtrays of any kind, and carrying the ſame immediately to the owner thereof.

9. *Be it enacted,* That for the more ſpeedy recovery of ſtrays, it ſhall and may be lawful for any perſon, at any time hereafter, to ſearch the ranger's books by this act directed to be kept in each county in this ſtate, for any information he may want, as to any horſe, mare, gelding, colt, neat cattle, hog or ſheep, which heretofore has, or hereafter may ſtray away from the owner thereof, the perſon requeſting ſuch ſearch firſt paying twelve and a half cents therefor, to the ranger keeping ſuch book.

11. *Be it enacted,* That the juſtices of each county court within this ſtate, are hereby authoriſed to iſſue their warrant on the county treaſurer, for ſuch ſum or ſums of money as ſaid court may think neceſſary, for the purpoſe of erecting a pound, for the ſafe keeping of all ſuch eſtrays, as are above mentioned.

12. *Be it enacted,* That nothing herein contained, ſhall be ſo conſtrued, as to prevent any perſons living ſouth of French Broad, Holſton and Big Pigeon rivers, within the ſeveral counties of this ſtate, holding lands by right of occupancy and preemption, and all other perſons within the limits of this ſtate, holding lands by bond, and living on the ſame, from the privilege, in as full and ample manner, as any freeholder within this ſtate, to take up any ſtray or ſtrays as by this act directed.

13. *Be it enacted,* That all laws and parts of laws reſpecting the taking up of ſtrays of every deſcription, heretofore in uſe within this ſtate, are hereby repealed and made void.

LAWS OF TENNESSEE.

Paſſed at the firſt ſeſſion of the fourth General Aſſembly of the ſtate of Tenneſſee, begun and held at Knoxville, on Monday, the twenty-firſt day of September, one thouſand eight hundred and one.

CHAP. IV.

An act to authoriſe the Governor to procure certain documents therein mentioned.

WHEREAS it has been repreſented to this general aſſembly, that the book containing the entries of land made in the office of John Carter, late entry taken of Waſhington county, is loſt or deſtroyed, and that great injuries may ariſe to the citizens in conſequence thereof: Therefore,

1 *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the governor be, and he is hereby authoriſed and required, as ſoon as may be, to uſe ſuch means as he may deem expedient and effectual, either by himſelf, or ſome perſon by him appointed for that purpoſe, to procure from the office of the ſecretary of ſtate of the United States, or elſewhere, a correct and authentic copy of the book containing the ſaid entries, or a correct tranſcript of a copy of ſaid entries, or ſo many thereof as can be procured, which copy or tranſcript ſo obtained, the governor is hereby required to depoſit in the office of the ſecretary of ſtate; and the ſame, when ſo taken and depoſited as aforeſaid, ſhall be held and deemed of equal validity with the original entry book in all reſpects whatever; and each and every perſon intereſted and concerned therein ſhall have ample acceſs thereto, by applying to the ſecretary aforeſaid, who ſhall be entitled to, and demand for every ſearch twelve an half cents, and the ſame for each copy by him ſo taken and delivered, and a further ſum of fifty cents for the uſe of the ſtate; which fees ſhall be paid by the party petitioning; and each and every copy ſo taken and certified, ſhall be admitted as evidence in any court in this ſtate. And he is moreover required and directed to lay his proceedings under this act, before the next general aſſembly.

2. *Be it enacted*, That the governor be and he is hereby authoriſed and required to appoint a fit and proper perſon to tranſcribe the locations contained in the books of the military land office, now in the poſſeſſion of general Martin Armſtrong, in Naſhville; and ſuch tranſcript together with the original, ſhall be depoſited in the office of the clerk of the ſuperior court of Mero diſtrict, and admitted as evidence in any ſuit, in as full and ample manner as the original copies could be. And ſaid clerk ſhall enter into bond, with approved ſe[illegible]

in the ſum of ten thouſand dollars, payable to the governor, for the time being and his ſucceſſors in office, for his faithful ſafe keeping ſuch records: which bond ſhall be aſſigned to any perſon injured, and ſhall not become void on the firſt recovery, but ſhall remain to be aſſigned over as often as the caſe may require; and ſaid clerk, before entering upon the diſcharge of the duties herein enjoined, ſhall take in open court, the following oath: "I, A. B. do hereby ſolemnly ſwear, (or affirm as the caſe may be) that I will faithfully and honeſtly keep the records of the military land office which now are, or may hereafter be put into my poſſeſſion; that I will not alter, deface, change, blot out or make any addition to the ſame, in any reſpect whatever, nor ſuffer the ſame to be done, So help me God"—And it ſhall be the duty of the ſaid clerk, whenever called on for a tranſcript or copy of location or locations, to deliver the ſame; which copy, ſo taken, ſhall be admitted as evidence. And for each copy he ſhall be entitled to receive twelve an half cents, and a further ſum of fifty cents for the uſe of the ſtate, which he ſhall account for as other public monies.

3. *Be it enacted,* That ſaid military land books, when ſo tranſcribed, ſhall be carefully reviſed, examined and corrected, by two proper and diſcreet perſons, to be appointed by the governor, who, previous to entering upon the diſcharge of ſaid duty, ſhall take and ſubſcribe before ſome competent authority, the following oath, viz:

I do hereby ſwear, (or affirm) that I will faithfully and carefully examine and reviſe the tranſcript of the books belonging to the military land office, and compare the ſame with the originals, and diligently correct every error in ſaid tranſcript, and make correſpond with the originals. So help me God.

4. *Be it enacted,* That the Governor is hereby empowered and required, without delay, to appoint and commiſſion a perſon duly qualified to go forward to the ſtate of North Carolina, and lay before the executive thereof, a copy of a law paſſed this ſeſſion of the general aſſembly, declaring the power of opening offices for perfecting titles on all legal, juſt, and bona fide claims, iſſued by the aforeſaid ſtate of North Carolina and recognized by the act of ceſſion made by that ſtate to the United States, and requeſt him to lay the ſame before the legiſlature at their next ſeſſion, and ſtate the propriety to them of tranſferring all right that the ſaid ſtate poſſibly can be conſtrued to have retained for perfecting grants, where entries had been made previous to the ſaid act of ceſſion; and further, to deliver into ſaid commiſſioner the original documents of all entries made in John Armſtong's office, or ſuffer the ſaid commiſſioner to have a copy taken for the uſe of this ſtate, and alſo all evidences of military warrants that have not ripened into grants; and further, is required to aſk and procure of the legiſlature of North Carolina, the reports made by Meſſrs. Gathier and Purviance reſpecting the land buſineſs, or permiſſion to take or procure tranſcripts of ſo much thereof as will ſhew when more than one grant has iſſued on a warrant, and ſuch other parts of ſaid report, and all other

evidences as may be neceſſary for the detection and prevention of frauds, the better to enable this ſtate to do equal and impartial juſtice to the ſtates and each individual, agreeably to the above recited act; and the originals or copies ſo obtained ſhall be by the ſaid commiſſioner delivered to the governor of this ſtate, who is hereby required to cauſe the ſame to be depoſited in the ſecretary's office, the object of which is, to place the holders or owners of any warrants in the preciſe ſituation for obtaining a grant, that he, ſhe, or they were in, under the laws of the ſtate of North Carolina, and to eſtabliſh a principle whereby this ſtate will have the ſame power to detect fraud as the aforeſaid ſtate of North Carolina poſſibly could have.

5. *Be it enacted*, That the governor ſhall alſo appoint a perſon to copy the entry books known by the name of Adair's office, alſo the entry books known by the name of Harden's office, which perſon, ſo appointed, previous to executing the ſame, ſhall take and ſubſcribe an oath before ſome juſtice of the peace of this ſtate, truly, faithfully & correctly to tranſcribe ſaid entries, and deliver the ſame to the governor, together with the originals, who ſhall cauſe them to be depoſited in the office of the ſecretary of this ſtate, and the ſame when depoſited as aforeſaid, ſhall be held and deemed of equal validity with the original entry books in all reſpects whatever; and each and every perſon intereſted therein, ſhall have ample acceſs thereto, by applying to the ſecretary aforeſaid, who ſhall be entitled to, and demand for every ſearch twelve an half cents, and the ſame for each copy, and a further ſum of fifty cents for the uſe of the ſtate, which fees ſhall be paid by the party petitioning; and each and every copy ſo taken and certified, ſhall be admitted as evidence in any court.

6. *Be it enacted*, That the holders of the books of entry of the counties of Waſhington, Sullivan and Greene, ſhall deliver to ſuch perſon or perſons as ſhall be appointed by governor to receive the ſame, the original locations and books of entry of the ſaid counties, or ſuch parts thereof as have not been deſtroyed, under the penalty of ten thouſand dollars, to be recoved in the name of the governor for the time being to the uſe of the ſtate.

7. *Be it enacted*, That the governor ſhall appoint two fit and proper perſons, who ſhall examine and carefully compare and correct the copies of the books of entry of Adair's and Harden's office, which examination ſhall be made at the ſecretary of ſtate's office, which perſons ſo appointed, ſhall, before they enter up the diſcharge of their duties, take and ſubſcribe, before ſome competent authority, the oath preſcribed in the third ſection of this act, and ſhall each receive the ſum of two dollars per day whilſt ſo employed.

8. *Be it enacted*, That the ſecretary of this ſtate ſhall previous to, or at the time of receiving the ſeveral documents ſpecified in this act, take before ſome competent authority, the following oath, viz:

I do hereby ſolemnly ſwear, (or affirm) that I will faithfully and honeſtly keep all and ſingular the papers and documents now depoſited in my office, and all others which may hereafter be put therein purſuant to an act, entitled, an act authoriſing the governor to procure certain documents therein mentioned and that I will not alter, deface, change, blot out, or make any addition to the ſame in any reſpect whatſoever nor ſuffer the ſame to be done. So help me God." And it ſhall further be the duty of ſaid ſecretary, to account for all monies by him collected in behalf of the ſtate, by virtue of this act, in the ſame manner as clerks of the ſeveral courts of law are bound to do.

9. *Be it enacted*, That the commiſſioner to be appointed in purſuance of this act to go to the ſtate of North Carolina, ſhall be allowed the ſum of four dollars for every day he ſhall be neceſſarily engaged in the buſineſs of his appointment. He ſhall take an oath before ſome judge or juſtice of the peace, well and truly to perform the duties enjoined on him by this act, to the beſt of his power, ſkill and ability, a copy of which oath ſhall be filed in the ſecretary's office. He may employ one or more clerks, under the direction of the governor, to aſſiſt him in doing the ſaid buſineſs. He ſhall keep up a conſtant correſpondence with the governor, and obſerve ſuch inſtructions as the governor may from time to time give him. And the governor ſhall give him all ſuch directions as he may deem expedient.

10. *Be it enacted*, That the commiſſioners to be appointed to copy the books and papers of Martin Armſtrong's, Carter's, Adair's, and Harden's offices, ſhall be allowed each the ſum of four dollars for each hundred locations or entries ſo copied; and the commiſſioners to be appointed to reviſe and examine the books of Martin Armſtrong, when copied, ſhall each receive two dollars per day whilſt they are neceſſarily employed in ſuch examination.

11. *Be it enacted*, That all copies to be taken by virtue of this act, ſhall be entered in well bound books, and be written in a plain round record hand, which books are to be procured at the proper coſt and charges of the perſon taking ſuch copies.

12. *Be it enacted*, That the governor is hereby authoriſed to draw upon both or either of the public treaſurers of this ſtate, for ſo much money as will be ſufficient to carry this act into effect, which draft or drafts ſhall expreſs the uſe ſuch money is drawn for: *Provided*, The whole ſum doth not exceed three thouſand dollars.

CHAP. V.

An act to prevent the exportation of unmerchantable commodities.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That no hog's lard, butter, hemp, flour, or kiln dried meal ſhall be exported from this ſtate till they be inſpected under the regulations hereinafter mentioned. And the juſtices

of every county court are hereby authoriſed and required, if to them it ſhall appear neceſſary, at the firſt or ſecond courts to be held in each of the ſaid counties after the paſſing of this act, or at any other court thereafter, nominate and appoint in open court, one or more fit and proper perſons, not exceeding ſix in one county, reſiding in ſaid county to attend at ſuch times and places as are by this act appointed and directed, to inſpect all ſuch lard, butter, hemp, flour, or kiln dried meal as ſhall be expoſed to ſale, for exportation, according to the directions of this act; and every perſon, ſo appointed, ſhall hold his office during good behaviour; and before he enters upon the execution of that office, ſhall make oath before the juſtices of his county court, carefully to view, inſpect and examine, when required, all lard, butter, hemp, flour and kiln dried meal, and to the beſt of his ſkill and judgment not to ſtamp or mark any of the above mentioned articles, unleſs they be good, clean, ſound, merchantable, and of the weight or guage by this act directed, and faithfully to diſcharge the duty of his office, without favor, affection, prejudice or partiality. And each inſpector, ſo appointed, ſhall, before he enters upon or executes the duties of that office, enter into bond, with two good and ſufficient ſecurities, in the penalty of one thouſand dollars, for the true and faithful diſcharge of his office agreeably to the directions of this act; which bond and ſecurities every ſuch court reſpectively is hereby empowered and required to demand and take, and cauſe to be acknowledged in open court, and recorded; and the ſaid bond ſhall be made payable to the governor for the time being and his ſucceſſor in office, and ſhall be in force for the term of three years after ſuch inſpector ſhall be out of office; and in the name of the governor any perſon or perſons injured may and ſhall, at his, her or their coſts and charges, commence and proſecute a ſuit or ſuits on ſuch bond againſt the parties therein bound, their executors or adminiſtrators, and ſhall and may recover all damages which he, ſhe or they may have ſuſtained by reaſon of the breach of the condition thereof; and the ſaid bond ſhall not become void upon the firſt recovery, or if judgment be given againſt the plaintiff or plaintiffs, who may ſue on ſuch bond, but may be put in ſuit, and proſecuted from time to time, for the benefit of the party or parties injured, until the whole penalty expreſſed in ſuch bond ſhall be recovered: *Provided always*, That if any ſuch verdict or judgment ſhall paſs for ſuch inſpector or his ſecurity, the perſon or perſons at whoſe inſtance ſuch ſuit ſhall have been proſecuted, ſhall pay double coſts.

2. *Be it enacted*, That the county courts of pleas and quarter ſeſſions of the reſpective counties, ſhall be, and they are hereby authoriſed and empowered, at any time, to diſcharge any inſpector from his ſaid office, who ſhall act contrary to his duty therein, the party complaining giving ten day's previous notice, in writing, of the complaint againſt him, with the particulars thereof; and at the death, or on the diſability of any of them, to appoint another to ſucceed ſuch dead, diſabled, or miſbehaving inſpector. And if ſuch death happen in the vacation of ſuch court, it ſhall then be lawful for any three juſ-

tices of ſuch court, to nominate and appoint ſome other fit or proper perſon as inſpector, until the next ſucceeding court for ſuch county ; or if any inſpector ſhall be rendered incapable of performing his duty by ſickneſs, or other accident, it ſhall then be lawful for ſuch inſpector, by and with the conſent of three juſtices, to appoint ſome other perſon as an aſſiſtant, during ſaid inſpector's diſability, which conſent ſhall be certified under their hands, and lodged with the clerk of the county court in which ſuch inſpector reſides ; and the perſon ſo appointed, ſhall take the ſame oath as inſpectors appointed by the courts ; and the inſpector ſhall be liable to the ſame fines and penalties for the ſaid aſſiſtant's bad conduct and miſbehaviour, as he is liable to for his own.

3. *Be it enacted*, That every inſpector ſhall give his attendance whenever he may be required, and ſhall provide an iron to brand any of the commodities bearing the name of the inſpector and his place of reſidence, and ſhall attend to the weighing the commodities he may inſpect, aſſiſtants being found by the owner ; and he ſhall alſo provide proper ſcales and ſteelyards of the lawful ſtandard for that purpoſe. And if any inſpector ſhall neglect his duty, or brand, ſtamp or mark any of the commodities contrary to this act, or brand any empty barrel, or lend his brand to any perſon whatever, he ſhall forfeit and pay for every barrel of lard, flour or kiln dried meal, or bale of hemp, or veſſel containing butter the ſum of twenty dollars, and for branding any empty barrel, or lending his brand, two hundred dollars, to be recovered with coſts, by action of debt, by and for the uſe of any perſon who ſhall ſue for the ſame, before any juriſdiction having cognizance thereof ; and every other perſon or perſons that ſhall by any ways or means brand or procure to be branded, ſtamped or marked, any of the aforeſaid commodities, than by the inſpector and his aſſiſtants, he or they ſo offending, ſhall forfeit and pay for every offence, the ſame fines and penalties as inſpectors are by this act liable to pay for breach of duty or miſbehaviour.

4. *Be it enacted*, That no cooper or other perſon furniſhing caſks, ſhall expoſe to ſale any barrel or half barrel, for the holding of butter or lard, flour or kiln dried meal, other than ſuch as are by this act directed to be made for that uſe, under the penalty of two dollars for each ; and every cooper or other perſon making barrels or half barrels, before they expoſe the ſame to ſale, ſhall ſet his or her proper brand upon the ſame, which brand ſhall be recorded in the office of the clerk of the county court, where he or ſhe may reſide, under the penalty, for each and every neglect, of twenty dollars.

5. *Be it enacted*, That every inſpector ſhall keep a book, in which ſhall be fairly entered, the maker's name and mark of every barrel, half barrel, bale or package inſpected, the number of barrels, half barrels, bales or packages of the ſame mark, the name of the merchant or exporter cauſing the ſame to be inſpected, and the time of inſpection, and ſhall give a certificate to any perſon requiring the ſame on payment of twenty five cents.

6. And whereas certain commodities, by being expoſed to

the ſun, or kept too long on hand after inſpection, may become unmerchantable, *Be it enacted*, That no butter or lard, flour or kiln dried meal ſhall be put on board any boat or other veſſel, for exportation, after the expiration of ſixty days from the time the ſame was inſpected, until the ſame ſhall have undergone a ſecond inſpection, and a certificate or certificates granted in the ſame manner as if ſuch commodities had never been inſpected, any thing herein contained to the contrary notwithſtanding; and every perſon offending herein, ſhall forfeit one thouſand dollars; and the maſter or commander of ſaid veſſel or boat ſhall be liable to the ſame penalty as for taking on board any of the ſaid commodities without being branded.

7. *Be it enacted*, That every veſſel containing lard or butter ſhall be filled with ſuch of thoſe articles as are found, good, and merchantable, and after inſpected, the ſame ſhall be branded by the inſpector as aforeſaid, and a certificate thereof given to the owner, bearing date, in words at length, the ſame day ſuch commodity was inſpected and paſſed.

8. *Be it enacted*, That every ſeller's of lard, butter, flour, kiln dried meal, or hemp, packed or filled in this ſtate, and ſtamped or branded, ſhall make oath before a juſtice of the peace, at the time of the delivery of the goods ſold or exported, that the ſeveral barrels by him ſold or exported, are the ſame that were inſpected and paſſed, and do contain the full quantity without embezzlement or alteration, to his knowledge. And every perſon taking a falſe oath, and being lawfully convicted thereof, ſhall ſuffer the pains and penalties inflicted on perſons guilty of wilful and corrupt perjury, and moreover ſhall forfeit and pay the ſum of one hundred and fifty dollars, to be recovered by any perſon or perſons ſuing for the ſame, to his or their uſe.

9. *Be it enacted*, That the inſpector or his deputy ſhall have and receive for viewing, ſearching and packing, or repacking, heading and branding; For every veſſel containing lard or butter, four cents—for every barrel of flour or kiln dried meal, four cents.—And for every bale or package of hemp, ſix cents, to be paid by the perſon having the ſame inſpected; and it ſhall be his duty carefully to record, in a bound book kept for that purpoſe, the number, marks, brands, and ſtamps, and the names of the perſons ſelling and ſhipping the ſame and deliver a copy thereof, certified by himſelf, to the purchaſer or exporter.

10. *Be it enacted*, That ſaid inſpector, or his deputy, on information made, or they having juſt right to ſuſpect, that any perſon or perſons having ſhipped, or is about to ſhip for exportation, any of the articles mentioned in this act, contrary to the true intent and meaning thereof, ſaid inſpector, or his deputy, ſhall have full power and authority, by virtue of this act, and without any further warrant, to enter on board any veſſel or boat whatſoever, lying or being in any port or place in this ſtate, and into any houſe, ſtore or places whatſoever, to ſearch for, or make diſcovery of any of the ſaid articles ſhipped, or intended to be ſhipped for exportation; and if the owner

or poſſeſſor, or their ſervants or others, ſhall deny him or them entrance, or if the ſaid officer or his deputy ſhall be any way moleſted making ſuch diſcovery as aforeſaid, or if ſuch merchant or owner ſhall refuſe to permit the ſaid officer or his deputies to view or examine any of the inſpectable commodities aforeſaid, or not permit him or them to brand or mark the ſame, if merchantable, according to the direction of this act, every perſon ſo offending, ſhall forfeit and pay the ſum of twenty-five dollars ; or if any perſon ſhall ſhip off any of the aforeſaid commodities, not branded or marked as by this act directed, every ſuch perſon, ſo offending, ſhall forfeit and pay the ſum of two dollars for every barrel or other veſſel, or package, or bale ſo ſhipped.

11. *Be it enacted,* That the word TENNESSEE be branded on each barrel or other wooden veſſel in which any articles paſſing inſpection is ſhipped, the letters of which ſhall be at leaſt one inch long; and the ſaid word, of the ſame ſize, ſhall be marked on each bale or package of hemp by the inſpector; and if any perſon or perſons counterfeit ſaid brand or mark, he, ſhe or they being legally convicted thereof, ſhall forfeit and pay the ſum of five hundred dollars for each offence.

12. *Be it enacted,* That all wheat flour or kiln dried meal be well boulted, and ſhall be made by the miller or manufacturer thereof merchantable, and of due fineneſs, and without any mixture of other or coarſer flour or meal ; and all caſks in which ſaid flour or meal ſhall be packed for exportation, ſhall be well made of good ſeaſoned materials, tightened with ten hoops ſufficiently nailed, with four nails in each chine hoop, and three nails in each upper bilge hoop, and ſhall be of the following dimenſions, viz: The ſtaves ſhall be twenty ſeven inches in length, and the heads ſeventeen inches and a half in diameter ; and for half barrels the ſtaves ſhall be twenty three inches in length, and the diameter at each head of twelve inches and a half.

13. *Be it enacted,* That every packer of flour or kiln dried meal ſhall put into a barrel the full quantity of one hundred and ninety ſix pounds of flour, and into every half barrel the full quantity of ninety eight pounds of flour ; and if any one of them ſhall put a ſmaller quantity of flour than is herein directed, in any caſk, he ſhall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, ſeventeen cents ; and caſks in which kiln dried meal is intended to be exported, ſhall be filled and the weight marked thereon. And the inſpector or his aſſiſtant, upon ſuſpicion, or at the requeſt of the purchaſers, ſhall, and he is hereby required to unpack any caſk of flour or meal, and aſcertain the quantity of the ſame ; and if deficient, the charges ariſing from the ſame, as well as re-packing, ſhall be paid by the perſon ſelling the ſame, and ſhall moreover be ſubject to the penalty of fifty cents for each caſk proving deficient.

14. *Be it enacted,* That the inſpector of flour or kiln dried meal, ſhall inſpect the ſame by boring through the head with an inſtrument not exceeding half an inch in diameter, to be by him provided for that purpoſe ; and if he ſhall judge that the

ſame is well packed and merchantable, according to the directions of this act, he ſhall plug up the hole, and brand the caſk in the quarter, with the name of the place at which he is inſpector, with a brand-mark to be provided by him for that purpoſe, and ſhall alſo brand and mark the degree of fineneſs which he ſhall on inſpection determine ſaid flour to be of, which degree ſhall be diſtinguiſhed as follows, to wit: SUPERFINE.—MIDDLING.—SHIP STUFF. For which trouble he ſhall have and receive of the owner of ſuch flour or meal, the ſum of three cents for each caſk; and no inſpector ſhall paſs any flour which is not merchantable, but ſhall mark on the caſk CONDEMNED. And if any perſon lade on board any boat or veſſel any flour marked CONDEMNED, or any caſks or barrels not inſpected or branded as aforeſaid, he ſhall forfeit and pay ten dollars for each and every ſuch caſk or barrel; and if any perſon ſhall pack, for exportation, any flour in old caſks which have been branded before, ſuch perſon for every ſuch offence, ſhall forfeit and pay the ſum of twenty dollars for every caſk or barrel ſo packed, to be recovered before any juſtice of the peace in the county in which ſuch offence ſhall be committed.

15. *Be it enacted*, That inſpectors of hemp ſhall not be concerned in mercantile or ropemaking buſineſs; and it ſhall be their duty carefully to inſpect and examine all hemp, when called on, at the different places of inſpection, carefully ſeparating that which may be ſtrong, dry and ſound, from that which may be unſound and unfit for exportation, and when ſo ſeparated, ſhall be diſtinguiſhed in the note by him given, in manner following, viz: All that which ſhall appear clean, dry and well conditioned, ſhall be termed firſt quality, and that which ſhall appear dry, ſtrong and well conditioned, though not perfectly clean, ſhall be termed ſecond or third rate, according to the cleanneſs of the ſame; but if it ſhall appear upon the offering any dry hemp for inſpection, that it contains ſo great a quantity of traſh, or is unſound, ſo as to render it unfit for manufacturing or exportation, the inſpector ſhall not give his note for the ſame, but the owner may diſpoſe of it as he thinks proper.

16. *Be it enacted*, That ſaid inſpector ſhall receive for his ſervices for every groſs ton, the ſum of one dollar, and every ton by him refuſed, the ſum of fifty cents, and ſo down in proportion, to be paid on delivering the note, or by the perſon whoſe hemp may be refuſed.

17. *Be it enacted*, That all hemp ſound and merchantable, diſtinguiſhed as above directed, ſhall when prized, have a label annexed thereto, ſtamped with the quality and weight of each bale, and the owner's name, which ſhall be entered in a book kept for that purpoſe; and he is hereby required to give a certificate for all hemp by him paſſed, in form following, viz:

I A. B. do hereby certify, that C. D. hath depoſited —— tons or pounds of hemp of —— quality, paſſed inſpection at —— at which place I am inſpector—Witneſs my hand this—day of —, in the year——,

18. *Be it enacted*, That every perſon or perſons owning a preſs;

ſhall be, and he or they are hereby empowered and directed to inſpect all cotton to be by him or them packed, and to paſs none inferior to firſt quality, unleſs it be marked as in this act directed; and ſhould any inſpector of cotton as aforeſaid, be guilty of paſſing and marking, or ſuffering to be packed or marked at his preſs, inferior cotton, without being properly deſignated as herein directed, he ſhall forfeit and pay for every ſuch offence, the ſum of one hundred dollars for each hundred weight, and ſaid inſpector of cotton ſhall grant proper certificates to the purchaſer or owner of the cotton which has paſſed through his preſs, and for each ſuch certificate he ſhall be allowed the ſum of twenty five cents, to be paid by the owner thereof: *Provided*, That cotton of inferior quality may be exported, having marked on the bale the words INFERIOR COTTON, in large letters, accompanied with a certificate of the value thereof, in compariſon with firſt rate cotton of the ſtate; and every perſon giving a falſe certificate, ſhall forfeit and pay the ſum of one hundred dollars.

19. *Be it enacted*, That the owners of preſſes ſhall cauſe to be marked upon each bale of merchantable cotton intended for exportation, the word TENNESSEE, together with the initial letters of their chriſtian, and the whole of their ſurname, and the number and weight of ſaid bale; and if any perſon ſhall preſume, with fraudulent intent, to inſcribe upon any bale of cotton any other than the marks of the gin or preſs where ſuch cotton was packed, he ſhall, upon conviction thereof forfeit and pay the ſum of five hundred dollars, to be recovered before any authority having cognizance thereof, one half to the ſtate, and the other half to the perſon ſuing for the ſame.

20. *Be it enacted*, That every ſellor or exporter of lard, butter, or hemp, flour or kiln dried meal, ſhall produce the certificate of the inſpector who inſpected the ſame and make oath or affirmation if required, before a juſtice of the peace, on the delivery of the goods ſold or exported, that the ſeveral commodities by him ſo to be ſold or exported, are the ſame that were inſpected and paſſed and do contain the full quantity mentioned in ſuch certificate, without embezzlement to his knowledge; which oath or affirmation the juſtice is hereby required to certify on the back of the certificate, which certificate the ſeller ſhall deliver to the buyer of ſuch commodities ſold, and the perſon exporting ſuch commodities ſhall deliver ſuch certificate to the maſter of the boat or veſſel on board which the ſame ſhall be ſhipped; and if ſuch ſeller or exporter ſhall refuſe to make ſuch oath or affirmation, he ſhall, for every ſuch offence, forfeit and pay the ſum of two hundred dollars.

21. *Be it enacted*, That no perſon holding any poſt or place of profit, by deputation or otherwiſe, ſhall be appointed to the office of inſpector, and no inſpector ſhall be capable of being elected a member of the general aſſembly; and if any perſon ſhall be appointed to ſuch office, and ſhall accept any poſt or place of profit after ſuch appointment, he ſhall be rendered incapable of of holding his ſaid office of inſpector, and the

court ſhall proceed to appoint another inſpector in the room of ſuch perſon, according to the direction of this act.

22. *Be it enacted,* That the ſeveral fines and forfeitures by this act inflicted, for which no method of recovery or application is herein before directed, ſhall and may be recovered with coſts, before any juriſdiction having cognizance thereof, one half to the uſe of the proſecutor, and the other half to the county where ſuch penalty ſhall be incurred, to be applied by the court to the leſſening the county tax.

23. *Be it enacted,* That no inſpector ſhall, by himſelf or others, purchaſe any cullings or other articles that do not paſs inſpection, upon pain of forfeiting one hundred dollars, to be recovered and applied in the manner that other fines and forfeitures are directed by this act.

24. *Be it enacted,* That the places hereafter mentioned, be, and are hereby appointed for the inſpection of the commodities herein mentioned: *Provided nevertheleſs,* the ſeveral county courts ſhall have power to make ſuch further regulations reſpecting the places of inſpection in their reſpective counties, as they may deem proper, viz.

For the county of *Montgomery*—Clarksville, Port Royal and Palmyra.

Robertson—Springfield and Fayetteville.

Davidson—Hayſborough, Naſhville & Wayneſborough.

Williamson—Franklin.

Sumner—Cairo, Saunders's ferry, below the mouth of Drake's creek; the mouth of Manſker's creek; the mouth of Station Camp creek; and at Eccle's oppoſite Cairo.

Wilson—At Morriſon's Ferry.

Smith—At Bledſoeſboro', the mouth of Cany Fork, and at Fort Blount.

Knox—The mouth of Sinking creek on Holſton, and Knoxville.

Roane—Kingſton.

Claiborne—Mouth of Old Town creek and mouth of Sycamore creek.

Anderson—Mouth of Powell's river, at Grantſborough.

Jefferson—Dandridge, Moſſy creek iron works, and at colonel Alexander Outlaw's bend of Nolichucky.

Grainger—Rutledge, and Ore's mill on Holſton.

Blount—Maryville, mouth of Baker's creek, and fork of Holſton, on Tenneſſee.

Sevier—M'Clery's mill, Wilſon's mill and forks of Pigeon.

Hawkins—Daniel Rice's, Rodham Keener's and Lockly Stubblefield's.

Sullivan—John Spurgen's mill, Saltville below the mouth of Reedy creek, and mouth of   creek.

Greene—Greenville, Morriſon's mill, Henry Conway's ſenior and Leeſburgh.

Washington—Joneſborough, Brownſborough, & Peter Range's mill Boon's creek.

Carter—Elizabethtown and at John Vault's.

Jackson—Mouth of Obed's and Roaring rivers, and Flinn's creek.

Cocke—Newport.

Provided nevertheleſs, that any perſon or perſons having at any landing, which is not by this act appointed a place of public inſpection, a quantity of produce for exportation, and being deſirous to ſhip the ſame directly on board a boat or veſſel for exportation from ſuch landing, it ſhall and may be lawful for ſuch perſon or perſons to call on an inſpector, who is hereby required to inſpect and brand the ſame, under the rules in this act directed, any thing herein contained to the contrary notwithſtanding; and in this caſe ſaid inſpector ſhall be allowed by the perſon for requiring this attendance, ſix and a quarter cents for each mile to ſaid place, beſides the ordinary fees.

25. *Be it enacted*, That all acts or parts of acts, coming within the purview and meaning of this act, be, and the ſame are hereby repealed.

CHAP. VI.

An act to regulate the proceedings of the court of equity, and for amendment of the law.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That the court of equity ſhall not have juriſdiction of any debt or demand of leſs value than fifty dollars, and all inferior juriſdictions ſhall have full power and authority, either originally or by appeal, to hear and finally determine all diſputes of leſs value.

2. *Be it enacted*, That where debts ſhall have been contracted in other ſtates, and it ſhall appear to the said court, or a judge thereof, by affidavit annexed to the bill, or otherwiſe, that any ſuch debtor has not ſufficient property liable to execution by Fieri Facias, in the ſtate where he reſides, to ſatisfy such debt, and the ſaid debtor ſhall own real or perſonal property in this ſtate, then and in that caſe, ſuch court ſhall have power and authority, upon a bill being exhibited for that purpoſe, to make real or perſonal property as aforeſaid liable for ſuch debt: *Provided*, the complainant ſhall, in all cases, exhibit ſufficient proof of his having previouſly taken all legal meaſures to the recovery of his debt, which proof ſhall conſiſt of a complete tranſcript copy of the judgment and execution obtained againſt ſuch debtor, and ſuch copy ſhall be certified under hand and ſeal of the clerk of the court in which ſuch judgment was obtained: *Provided also*, that ſuch bill or ſuit ſhall be inſtituted or filed in the court of the diſtrict where ſuch real or perſonal property is ſituated: *And farther provided*, that nothing herein contained ſhall be conſtrued to invalidate the proceedings on attachment heretofore had at law.

3. *Be it enacted*, That the ſaid court ſhall have power to iſſue attachment at law, in order to carry into effect the above proviſions, and in ſuch other equitable caſes where the court may deem it right and proper, to render proceſs in equity

more effectual, by ſuperceding ſequeſtration agreeably to the practice of the court of chancery in England.

4. *Be it enacted,* That, in all caſes of ſuits in equity, upon contracts made in other ſtates, the court ſhall direct publication to be made for ſix weeks next immediately after the riſe of ſuch court, in ſome gazette printed in the ſtate, requiring the appearance of an abſent defendant ; and ſhould the ſaid court deem it neceſſary, ſhall direct publication alſo to be made in ſome gazette of the ſtate in which ſuch abſent defendant reſides, agreeably to practice in ſuch caſes. Evidence of ſuch publication ſhall be an affidavit of the printer, or actual production of the gazette or gazettes in court ; whereupon, ſhould no plea, anſwer, or demurrer be filed the bill ſhall be taken pro confeſſo, and decreed accordingly ; but the ſaid court ſhall not proceed to make a final decree untill the court next ſucceeding that in which the bill ſhall have been taken pro confeſſo as aforeſaid.

5. *Be it enacted,* That any non reſident defendant may plead, anſwer, or demur, at any time before final decree ; and ſuch pleading ſhall be put on the rule docket at the firſt rule day after exhibiting the ſame.

6. *Be it enacted,* That in all ſuits in the ſaid court, the following rules and methods ſhall be obſerved :

7. The complainant ſhall file his bill as heretofore.

8. And he may amend his bill before the defendant or his attorney hath taken out a copy thereof, or the clerk hath iſſued the ſame ; or he may amend in a ſmall matter afterwards without paying coſts ; but if he amend after ſuch copy hath iſſued, he ſhall pay the defendant all coſts occaſioned thereby.

9. There ſhall be no other proceſs of contempt than attachment, but without proclamation.

10. No proceſs of contempt ſhall iſſue, unleſs the ſupœna or writ be returned ſerved by a ſworn officer, or affidavit be made of the ſervice thereof, except in caſes herein provided.

11. Every defendant may ſwear to his anſwer before any one judge or any juſtice of the peace in this ſtate, or any ſuch officer in other ſtates ; provided, in the caſe of an affidavit before a judge or juſtice of any other ſtate, the clerk of the court in which ſuch judge or juſtice ſhall have juriſdiction, ſhall from under his hand and ſeal of office (if there be one) certify official capacity of ſuch judge or juſtice.

12. Rules to plead, anſwer, demur, or reply, or other proceedings when neceſſary, ſhall be given from month to month with the clerk in the office, unleſs otherwiſe herein provided ; and all orders or rules taken at any one court, ſhall be inſerted on ſuch rules, at the firſt rule day after ſuch term, making the filing of an awſwer, plea, or demurrer, an appearance ; which rules ſhall be entered in a book neatly bound, for the information of all parties concerned therein . and the effect to be produced by each rule, ſhall be had and obtained at the expiration thereof.

13. The defendant ſhall plead, anſwer, or demur, at the firſt term to which the proceſs ſhall be returnable, unleſs

further time is allowed by the court, which ſhall expire at ſome one of the rule days herein provided ; and the ſaid day of expiration ſhall be conſidered in the taking of rules, as the day for the appearance of the defendant.

14. In all caſes except ſuch as relate to debts contracted in other ſtates, where the ſheriff ſhall return non eſt inventus upon any leading proceſs, the court ſhall proceed to make publication as heretofore, and upon proof thereof as aforeſaid, the court ſhall proced to make a final decree under the regulations herein provided.

15. If the defendant ſhall fail, on the proceſs being duly ſerved on him or her, to plead, anſwer, or demur, at the term to which the proceſs ſhall be returnable, or to obtain further time to anſwer, then and in that caſe, the bill of the complainant may be taken pro confeſſo, at the firſt term as aforeſaid, and the plantiff may have a general commiſſion to take depoſitions, or proceed by proceſs of contempt, in order to bring the defendant into court to anſwer interrogatories, at his election and the defendant ſhall refuſe to anſwer ſuch interrogatories, as the court may put, he or ſhe ſhall be committed : And the plaintiff may proceed on to hearing in the two laſt caſes as if the anſwer had been filed, and the cauſe was at iſſue : *Provided*, that the court, or a judge thereof, on good cauſe ſhewn, may allow the anſwer to be filed and grant a further day for ſuch hearing.

16. After anſwer filed, and no plea in abatement to the local juriſdiction of the court, no exception for want of ſuch juriſdiction ſhall ever afterwards be made.

17. If the complainant's attorney ſhall except againſt any anſwer as inſufficient, he may file his exceptions, and give a rule with the clerk to make a better anſwer within one calendar month, and if within that time the defendant ſhall put in a ſufficient anſwer, the ſame ſhall be received without coſt, but if any defendant inſiſts on the ſufficiency of his anſwer, or neglects or refuſes to put in a ſufficient anſwer or ſhall put in another inſufficient anſwer, the plaintiff may ſet down his exceptions to be argued the next term in court, and after the expiration of ſuch rule, or any ſecond inſufficient anſwer put in no further or other anſwer ſhall be received, but upon payment of coſts.

18 If upon argument in court, the complainant's exceptions ſhall be over ruled, or the defendant's anſwer adjudged inſufficient, the complainant ſhall pay to the defendant, or the defendant to the complainant, ſuch coſt as ſhall be allowed by the court.

19. Upon the ſecond anſwer being adjudged inſufficient by the court, coſts ſhall be doubled, and attachment may iſſue, and the defendant may be examined upon interrogatories, and committed until he or ſhe ſhall have anſwered, or in caſe ſuch defendant ſhall fail to appear upon the return of ſuch attachment, an alias attachment ſhall iſſue, upon which no bail ſhall be taken.

20. If the defendant at any time after proceſs of contempt being returned executed, or being brought into court upon

ſuch proceſs, or ſhall refuſe to anſwer the plaintiff's bill, or 1081
the defendant ſhall put in an inſufficient anſwer, which ſhall be ſo adjudged by the court, the complainant may proceed to have the bill taken pro confeſſo, and obtain decree accordingly; but in that caſe all further proceſs of contempt ſhall ceaſe, and if the defendant ſhall be in cuſtody, the court, or a judge thereof, may order his or her diſcharge.

21. After an attachment returned, no plea or demurrer ſhall be received, unleſs by order of court, upon motion; and upon ſervice of all attachments, bail ſhall be taken unleſs herein otherwiſe directed.

22. In all caſes where judicial proceſs or execution, according to the principles of the common law, cannot be made to apply to the purpoſes of carrying into effect any decree in equity, then the court may be authoriſed to order an attachment for contempt, provided a copy of the decree ſhall have been ſerved upon the defendant, by reading the ſame to him, at leaſt ten days before court, and due proof being made. And in caſe ſuch defendant ſhall abſcond or keep out of the way, ſo that a copy cannot be ſerved as aforeſaid, or ſuch defendant ſhall evade or refuſe to have the ſaid decree read, ſuch officer or other perſons ſhall leave a copy at the houſe or laſt place of abode of ſuch defendant; and proof of ſuch facts being made by affidavit, the court ſhall have power to order an attachment in the ſame manner as if a copy of the decree had been read as aforeſaid.

23. All attachments for not performing decrees, ſhall be in nature of an execution, on the ſervice of which no bail ſhall be taken, but the party ſhall be committed to the diſtrict jail, there to remain until he performs the decree: *Provided*, that ſuch court, or any of the judges thereof in vacation, ſhall have power to grant a Habeas Corpus. And if upon interrogatories exhibited on oath to the party brought up on ſuch writ, it ſhall appear to the ſatisfaction of ſuch court or judge, that the party has cleared contempts, the ſaid court or judge may order his or her dicharge upon ſuch conditions as it reſpects his or her compliance with the decree, as ſuch court or judge may think proper: *Provided always*, that the adverſe party, his agent or attorney, ſhall have reaſonable notice of the time and place of exhibiting ſuch interrogatories, if ſuch party, his agent or attorney at law be within the diviſion.

24. The complainant ſhall reply or file exceptions on or before the ſecond rule day after the term in which the anſwer ſhall have been filed. The defendant having given a rule for replication, may give another rule on the ſaid ſecond rule day for hearing upon bill and anſwer, after the expiration of which the cauſe ſhall be ſet for hearing and no depoſitions or proof ſhall be admitted on either ſide, unleſs by conſent, or by order of court.

25. Hereafter no ſpecial replication ſhall be allowed, and all cauſes ſhall be at iſſue upon filing a general replication.

26. If the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may ſet it

down with the clerk to be argued; or if he thinks the plea good but not true, he may take iſſue upon it, and proceed to trial by jury, as has been heretofore uſed in other cauſes in equity where trial hath been by injury: And if thereupon the plea ſhall be found falſe, the complainant ſhall have the ſame advantages as if it had been ſo found by verdict at common law.

27. If a plea or demurrer be over ruled, no other plea or demurrer ſhall be thereafter received; but the defendant ſhall anſwer the allegations of the bill; and in caſe he or ſhe fail ſo to do, upon a rule being given, the plaintiff may proceed to have his bill taken pro confeſſo, as if no plea or demurrer had been filed.

28. Upon a plea or demurrer argued and over ruled, coſts ſhall be paid, as where an anſwer is adjudged inſufficient, but if adjudged good the defendant ſhall have his coſts.

29. If the complainant ſhall not proceed to reply to, or ſet for hearing, any plea, anſwer, or demurrer, (or in caſe of the bill being ſet for hearing upon bill and anſwer by the defendant) he ſhall fail to proſecute his ſuit, on or before the ſecond court after filing or ſetting the ſame for hearing in both of theſe caſes the bill may be diſmiſſed of courſe with coſts, during the ſame ſecond term.

30. Where ſubſcribing witneſſes to the execution of deeds, writings, or other documents, eſſential to the juſtice of a cauſe live at a greater diſtance than twenty miles from the place of holding court, the depoſitions of ſaid witneſſes ſhall be taken with ſuch deeds, writings or other documents annexed thereto, proving the execution thereof.

31. The mode of proof by oral teſtimony, and examination, either before the court on hearing or the jury on trial of an iſſue of fact, ſhall be the ſame as in courts of law, where ſuch witneſſes reſides or ſhall be found within the diviſion hereafter mentioned, unleſs the parties or their attornies ſhall agree to take depoſitions, which in all caſes ſhall be good, unleſs otherwiſe herein provided. And when the teſtimony of any perſon ſhall be neceſſary in any cauſe depending in ſaid court who ſhall not reſide in ſaid diviſion, or is about to go without the ſame before the time of hearing or trial, or is ancient or very infirm, the depoſition of ſuch perſon may be taken de bene eſſe, and may be read without proof of ſuch diſability to attend.

32. Depoſitions may be taken before the clerk and maſter, any judge or juſtice of the peace, mayor, or chief magiſtrate of a city or town, not being intereſted, or of council, or attorney to either of the parties within this or any other ſtate; or the court may direct depoſitions to be taken before any other perſon, ſhould it be neceſſary.

33. The clerk and maſter ſhall have power to iſſue ſubpœnas for witneſſes, and commiſſions to take depoſitions as of courſe. And proof of notice before the clerk and maſter, ſhall be as effectual as if made in court.

34. As it reſpects giving parties notice, ſummoning witneſſes, and collecting evidence, ſo far as relates to the provi-

ſons of this act, this ſtate ſhall be divided into two diviſions. All that part of the ſtate of Tenneſſee included within the limits of Waſhington and Hamilton diſtricts ſhall compoſe one diviſion, and all that part within the limits of the diſtrict of Mero ſhall compoſe the other diviſion.

35. When the party to be notifyed ſhall reſide within the diviſion, notice to an agent or attorney at law ſhall not be effectual, unleſs the ſaid agent or ettorney at law ſhall agree to receive or accept of notice.

36. When iſſues of fact are neceſſary, it ſhall be the duty of parties by their attornies, to agree upon the ſame in writing, under their hands, at the rule day, when the replication ſhall have been put in, but in caſe either party ſhall refuſe or neglect to make ſuch agreement at ſuch rule day, then and thereafter, either party, by his attorney aforeſaid, may demand of the clerk copies of the pleadings, viz. bill, anſwer or anſwers, and replication, which copies ſhall be delivered to any one of the judges of the ſaid court, whoſe duty it ſhall be to examine the ſame, and as ſoon as may be, make in writing, under his hand, ſuch iſſues of fact as he may deem material to the attainment of juſtice, and file the ſame of record with the clerk and maſter, within fifteen days after receiving copies of ſaid pleadiegs, as a guide for the parties in ſummoning witneſſes and taking depoſitions; and the clerk and maſter ſhall mark the day of filing the ſame.

37. Six months after the replication ſhall have been filed, ſhall be allowed the parties for taking depoſitions and procuring evidence, unleſs the parties or their attornies ſhall agree to ſet the cauſe for hearing ſooner. At the expiration of the ſaid ſix months either party may ſet the cauſe for hearing; nor ſhall any depoſition taken after that time be read in evidence on the hearing, except by conſent, or leave of court.

38. When a croſs bill ſhall be exhibited, the defendant or defendants to the firſt bill ſhall anſwer thereto, before the defendant or defendants to the croſs bill ſhall be compelled to anſwer ſuch croſs bill.

39. After any bill filed, and before the cauſe ſhall be at iſſue, by replication as aforeſaid, upon oath made by either party, that his or her witneſſes are aged or infirm, or going out of the diviſion, the clerk and maſter may iſſue commiſſions for taking the examination of ſuch witneſſes de bene eſſe.

40. If it ſhall appear to the court upon hearing of a cauſe, that iſſues of fact are neceſſary, they may direct the ſame, and that they ſhall be tried inſtanter.

41. The court in their ſettings may regulate and controul all proceeding in the office, and for good cauſe ſhewn, may ſet aſide any diſmiſſions, and reinſtate the ſuit on ſuch terms as ſhall appear equitable.

42. For prevention of errors in entering up the decrees and orders of the court, the proceedings of every day ſhall be drawn up at large by the clerk in a bound book, to be called the Order Book, and read in open court the next day, (except thoſe of the laſt day of each term, which ſhall be drawn up, read, and corrected the ſame day) and any neceſſary correcti-

ons made therein ; and they ſhall be ſigned by the judge or judges of the court preſent the preceding day, when the ſaid proceeding took place, and preſerved among the records.

43. And for the more entire and better preſervation of the records of the court, the clerk and maſter ſhall, within twelve months from the paſſing of this act, record together, in a bound book or books, the proceedings in each cauſe which have been, or ſhall be finally determined before the firſt day of January next. It ſhall be the duty of the ſaid court, or a judge thereof, to examine and certify the performance thereof, at the beginning or ending of ſuch records, ſpecifying the cauſes and number of pages, and in caſe the ſaid clerk and maſter ſhall fail to record the ſame within the time aforeſaid he ſhall forfeit his office, and it ſhall be the duty of the ſaid court to appoint another fit and proper perſon as clerk and maſter.

44. And all proceedings in cauſes which may be finally determined after the ſaid firſt day of January, ſhall be entered together by the clerk and maſter, in a well bound book, to be called the Record Book, within ſix months from their determination, and it ſhall be the duty of the court at the term next ſucceeding the one in which ſuch cauſes were determined, or a judge in vacation, to examine the ſaid records and certify the recording as aforeſaid ; and in caſe the clerk and maſter ſhall fail herein, it ſhall be the duty of ſaid court to diſplace him as aforeſaid, and appoint another perſon.

45. The proceedings in each cauſe to be recorded together, ſhall be the pleadings, conſiſting of bill, anſwers, pleas, demurrers, replications, iſſues of fact, verdicts thereon, and decrees, as the caſe may be.

46. The clerk and maſter ſhall file and carefully preſerve in order, all papers belonging to his office, ſubject to the examination of the court ; and ſhall keep a memorandum book, in which ſhall be noted every ſubpœna for witneſſes, commiſſions de bene eſſe, or otherwiſe, the day they iſſued, and any other proceedings of the ſaid clerk and maſter, not entered on his records, rule docket, or minutes. And the ſaid memorandum book ſhall be open for parties and their attornies, to make ſuch memorandums for the direction of the clerk, as may be neceſſary.

47. When actions of ejectment or caveats, ſhall have been brought, and injunctions granted, ſuch injunctions ſhall not be diſſolved, but attend the final determination of the cauſe.

48. Inſtead of decreeing parties to convey lands as heretofore practiſed in equity, the ſaid court ſhall have power by decrees, reſpecting titles, to diveſt thereby (without conveyance from the party) the property of the perſon or perſons againſt whom a decree ſhall be made, under ſuch conditions and limitations as may be therein expreſſed : *Provided always*, That copies of ſuch decrees ſhall be recorded in the regiſter's office of the county where the land lies, agreeably to the law in force reſpecting the regiſtration of deeds, for which the regiſter ſhall be allowed the ſame fee as for regiſtering a conveyance ;

which fee ſhall be paid by the party for whoſe benefit ſuch decree ſhall have been made.

49. And in order to procure uniform and permanent rules of deciſion in the ſaid court reſpecting real property, *It is enacted*, That in all cauſes where the title of land ſhall come in queſtion, it ſhall be the duty of ſaid court, before a decree ſhall be pronounced, to give in open court the reaſons for ſuch decree; and it ſhall be further the duty of the court pronouncing a decree as aforeſaid, to enter in a record book to be kept by the clerk and maſter for that particular purpoſe, in as conciſe a manner as the nature of the caſe may admit of, the ſaid reaſons, and ſign the ſame. It ſhall alſo be the duty of any diſſenting judge, to enter and ſign his reaſons as aforeſaid; and the clerk and maſter from time to time, is required to provide at the public expence ſuch well bound books as may be neceſſary for that purpoſe, and the ſaid clerk ſhall be allowed for the ſame in his ſettlement with the treaſurer.

50. *Be it enacted*, That in all cauſes in the ſaid court, where the title of land ſhall come in queſtion, two of the ſaid judges at leaſt ſhall concur in making a decree.

51. *Be it enacted*, That the ſaid court ſhall have power, and are hereby directed, to make from time to time, all further general or ſpecial rules and regulations, not inconſiſtent with the proviſions of this act, as juſtice may require.

52. *Be it enated*, That for ſervices required by this act, the clerk and maſter ſhall be allowed the ſame fees as heretofore; and as a full compenſation for taking and preſerving the rules eſtabliſhed by this act, ſhall be allowed ten cents for each rule inſerted on the rule docket, not exceeding for all the rules taken on ſuch docket, in any one cauſe, the ſum of one dollar.

53. And whereas upon bills of review in the ſaid court, it may be thought reaſonable, during the pendency of ſuch bills, or until cauſe ſhall be ſhewn to the contrary, to ſtay proceedings on the decree which ſuch bills are intended to review, *Be it enacted*, That the ſaid court, when a bill praying a review of the proceedings in which a decree ſhall have been pronounced, ſhall be preſented, may upon ſuch bill and the circumſtances of the caſe as the ſame ſhall appear ſatisfactory, direct proceedings on ſuch decree to be ſtayed until a decree on the ſaid bill of review ſhall be made, or until the further order of the ſaid court; or the ſaid court may refuſe to grant a ſtay of proceedings in that caſe as ſhall ſeem right: *Provided*, That the ſaid court may in either of the ſaid caſes, direct ſuch ſecurity to be given, and in ſuch place, as is uſual in caſes of injunction, or ſuch other ſecurity as ſhall ſeem reaſonable: *Provided*, That no bill of review ſhall be brought, or a motion made therefor, except within three years from the time of pronouncing ſuch decree; ſaving to infants, feme coverts, perſons non compos mentis, impriſoned, or beyond ſeas, a right to move for a bill of review within three years after ſuch diſability ſhall have been removed.

54. *Be it enacted*, That ſuits may hereafter be brough both in courts of law and equity in the names of aſſignees of bonds

with collateral conditions, bills or notes for ſpecific articles, or the performance of any duty.

55. *Be it enacted*, That no plea of non eſt factum, either in law or equity, ſhall be received, unleſs on oath.

56. *Be it enacted*, That private acts of aſſembly may be given in evidence, without pleading them ſpecially, either in law or equity.

57. *Be it enacted*, That papers read in evidence, either in law or equity, though not under ſeal, may be carried from the bar by the jury.

58. *Be it enacted*, That every perſon deſirous of ſuffering a non ſuit on trial at law, ſhall be barred therefrom, unleſs he do ſo before the jury retire from the bar.

59. *Be it enacted*, That not more than two new trials ſhall be granted to the ſame party in the ſame cauſe at law, or upon trial of an iſſue of fact in equity.

60. *Be it enacted*, That after iſſue joined in any ejectment on the title only, no exceptions of form or ſubſtance ſhall be taken to the declaration in any court whatſoever.

61. *Be it enacted*, That any inſtrument to which the perſon making the ſame ſhall affix a ſcroll by way of ſeal, ſhall be adjudged and holden to be of the ſame force and obligation as if it were actually ſealed.

62. *Be it enacted*, That if in detinue, the verdict ſhall omit price or value, the court may at any time award a writ of enquiry to aſcertain the ſame. If on an iſſue, concerning ſeveral things in one count in ditinue, no verdict be found for part of them, it ſhall not be error, but the plaintiff ſhall be barred of his title to the things omitted.

63. *Be it enacted*, That where there are ſeveral counts, one of which is faulty, and entire damage is given, the verdict ſhall be good; but the plaintiff may apply to the court to inſtruct the jury to diſregard ſuch faulty count.

64. *Be it enacted*, That a judgment on confeſſion at law, or filing an injunction in equity, ſhall be equal to a releaſe of errors.

65. *Be it enacted*, That the law of coſts ſhall not be interpreted as penal laws.

66. *Be it enacted*, That in all actions of debt which ſhall be brought upon any bond or bonds for the payment of money, or upon bonds with collateral conditions, wherein the plaintiff ſhall recover, judgment ſhall be entered for the penalty of ſuch bond, to be diſcharged by the payment of the principal and the intereſt due thereon, or the damages aſſeſſed by the jury, and other coſts of ſuit, and execution ſhall iſſue accordingly. Or if, before judgment, the defendant ſhall bring into court the principal and intereſt due on the bond, conditioned for the payment of money, he ſhall be diſcharged, and in that caſe judgment ſhall be entered for the coſts only. And in any action of debt on ſingle bill or in debt, or ſcire facias upon a judgment, or in debt upon bond, if before action brought the defendant hath paid the principal and intereſt due by the defeaſance or condition, he may plead payment in bar.

67. *Be it enacted*, That all and every act or acts, and all

parts of acts containing any thing within the purview of this act, ſhall be, and are hereby repealed.

68. *Be it enacted*, That this act ſhall be in force from and after the paſſing thereof.*

*** The following ſection ſtill in force in this ſtate, was omitted in its proper place and is to be found in Iredell's collection of the laws of North-Carolina for 1782, Chap. 11, Sect. 3.**

8. *And be it further enacted by the authority aforeſaid*, That the rules and methods of proceeding in the ſad courts ſhall be as follows, that is to ſay,

The plaintiff may file his bill in the clerk's office, either during term time or in the vacation, and therein ſuggeſt on oath ſuch damages as he thinks he has incurred by the conduct complained of in the defendant, (which damages are to be ſtated in ſpecie) and thereupon the clerk ſhall iſſue a writ of ſubpœna as is uſual in caſes of chancery, or in caſe either of the judges ſhall give ſpecial order to hold the defendant to bail, the clerk ſhall iſſue a writ directed to the ſheriff of the county wherein the defendant is ſuppoſed to be reſident, as follows:

The State of North-Carolina, to the Sheriff of County,
Greeting:

YOU are hereby commanded to take the body of late of your county, (if to be found in your county) and him ſafely keep, ſo that you have him before the judges of the ſuperior court of law and equity for the diſtrict of at the town of on the day of next, or until he ſhall give you good and ſufficient ſecurity in the ſum of pounds ſpecie, (which ſum is hereby directed to be double the damages ſuggeſted on oath in the bill) to appear and anſwer at the ſaid court on the day aforeſaid, to a bill in equity filed againſt him by and this you ſhall in no wiſe omit at your peril. Witneſs clerk of the ſaid court, at the day of and in the year of the State.

Which writ the ſheriff is hereby directed and required to obey; and the ſame rules and regulations ſhall be obſerved in regard to bonds taken by virtue of this act, and that they be on the ſame footing in all reſpects as bail bonds taken by the ſheriff on actions at law, except that they ſhall be aſſignable by the ſheriff or his executors or adminiſtrators, under the direction of the court, and the ſheriff is to be held liable for taking inſufficient ſecurity as in ſuch caſes in actions at law. *Provided*, That no ſuch writ ſhall iſſue againſt an executor, adminiſtrator or heir at law, who is ſued as ſuch, but the proceſs againſt ſuch executor, adminiſtrator or heir at law, ſhall be by a writ of ſubpœna, as uſual in caſes of chancery, and the penalty for not appearing and anſwering ſhall be one hundred pounds ſpecie, but the ſaid penalty is not to be levied, nor final judgment given for it, until the term ſe ſuing that to which it is returnable, nor without a ſcire facias having been duly ſerved, and proof thereof made to the ſatisfaction of the court, as in caſes at law where ſcire faciaſſes are required. And where any other perſon is made a defendant together with ſuch executor, adminiſtrator or heir at law, as aforeſaid, a capias may iſſue as above againſt ſuch other perſon, and a writ of ſubpœna againſt ſuch executor, adminiſtrator or heir at law.

No writ ſhall be ſerved by the ſheriff unleſs he has a copy of the bill ready to deliver to the defendant, and he is hereby required to deliver the ſaid copy immediately after the ſervice of the ſaid writ; nor ſhall any ſervice be valid unleſs it be made at leaſt ten days before the term at which the defendant is required to appear; and where the ſervice is by ſubpœna the defendant ſhall be ſerved with a copy of the bill at leaſt ten days before ſuch term, on failure of any of which requiſitions, the defendant may plead the matter in abatement, and the bill ſhall be diſmiſſed.

Upon ſuch writ or ſubpœna being duly ſerved, and a copy of the bill delivered in proper time, (proof being made to the ſatisfaction of the court by return of the ſheriff or by affidavit) the defendant ſhall appear and put in his anſwer or plea, agreeable to the practice in chancery, or demur; or on failure thereof the plaintiff's bill ſhall be taken pro confeſſo, and appointed to be heard ex parte at the enſuing term. *Provided*, That if within the three firſt days of the ſaid enſuing term the defendant ſhall offer any ſatiſfactory reaſon to the court for his not appearing at the firſt term, the order for the bill being taken pro confeſſo, and heard ex parte, may be diſcharged, and the defendant then admitted to plead, anſwer or demur, and ſuch time ſhall be allowed in this as well as in all other caſes for the pleadings on both ſides, and ſuch day appointed for the hearing as the court ſhall direct.

Commiſſions to take teſtimony may iſſue, directed to any two juſtices of the peace, who ſhall have all the powers of commiſſioners of chancery, and the rules of proceeding in all caſes of taking ſuch teſtimony ſhall be conformable to the method of proceeding formerly obſerved in the court of chancery in this ſtate. *Provided*, That no ſuch teſtimony ſhall be taken until at leaſt twenty days notice of the time and place of taking the ſame be given to the oppoſite party, unleſs the court for ſufficient reaſons ſhould appoint any other limited time for the notice, which they may do in all caſes, either by enlarging or ſhortining the time hereby appointed for taking ſuch teſtimony, as the caſe may require.

Commiſſions may alſo iſſue to any juſtice or juſtices of the peace to take the plea, anſwer, or demurrer of a defendant, as is accuſtomed in caſes in chancery with reſpect to commiſſioners of chancery, and the ſaid juſtice or juſtices ſhall have all the power of ſuch commiſſioners for that purpoſe.

Any one judge of the court may in the vacation, if it ſhall be neceſſary, grant ſuch commiſſions as are above mentioned, or may himſelf examine teſtimony, or take the plea, anſwer or demurrer of a defendant in like manner; he may alſo grant injunctions, or ne exeats, where the neceſſity of the caſe will not admit of a delay, but ſtill ſubject to the controul and further order of the court; and no ne exeat ſhall iſſue where ſufficient bail has been taken for the party's appearance.

All matters of fact that ſhall come in iſſue between the parties ſhall be determined by a jury in the preſence of the court, as in trials at law, and the trial ſhall be by the jury attending the ſuperior court, or if they ſhall be diſcharged, it may be by a jury ſummoned inſtanter, (who are to be qualified as other jurymen) or a ſpecial jury may be ſummoned for that purpoſe with the conſent of the parties, and approbation of the court, and mode of proceeding by ſuch juries ſhall be the ſame in every reſpect as in trials at law; the ſame rules and methods to be obſerved in this caſe as have been practiſed upon queſtions of fact being ſubmitted by a court of chancery to the deciſion of a common law juriſdiction.

Coſts ſhall be paid by either party at the diſcretion of the court.

The court may at any time during the dependence of the ſuit, require further ſecurity from a defendant, or on failure thereof, make uſe of ſuch perſonal proceſs as was formerly uſed by the court of chancery held in this ſtate, and deemed incident to the chancery juriſdiction; and the court ſhall in all caſes have power to order ſuch proceſs to enforce their ſentences or decrees, as have uſually belonged to the courts of chancery.

C H A P. VII.

An act to define the juriſdiction of juſtices of the peace, and for other purpoſes therein mentioned.

WHEREAS it appears to this general aſſembly, that many inconveniences ariſe to the citizens of this ſtate, in the diſtribution of juſtice, under the law paſſed at Knoxville on the twenty third day of October, one thouſand ſeven hundred and ninety nine, entitled, "An act to increaſe the juriſdiction of juſtices of the peace."—For remedy whereof,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That all debts and demands of fifty dollars and under, where the balance is due on any contract, ſpecialty, note or agreement for goods, wares and merchandize ſold and delivered, or for work or labor done, or for ſpecific articles, whether due by obligation, note or aſſumpſit, are hereby declared to be cognizable and determinable by any one juſtice of the peace out of court, and judgment may be given and execution awarded accordingly; ſubject, nevertheleſs, to appeal of either party, to be tried in the county court by a jury as in other caſes: *Provided always,* That judgment given by a juſtice of the peace, execution ſhall be ſtayed in the following manner, viz: For all ſums of five dollars or under, twenty days—For all ſums over five dollars, and not exceeding ten dollars, thirty days—For all ſums over ten dollars, and not exceeding twenty dol-

lars, ſixty days—And for all ſums over twenty dollars, and under thirty dollars, ninety days.—For the full and true performance of which, with legal coſts and intereſt till paid, the party requiring ſuch ſtay of execution ſhall give ſufficient ſecurity, if required by the adverſe party. And if the judgment ſhall not be diſcharged at the time the ſtay of execution has expired, then it ſhall and may be lawful for any juſtice of the peace of the county, having ſuch judgment in his poſſeſſion, to iſſue execution againſt the principal and his ſecurities, without any intermediate proceſs.

2. *Be it enacted*, That in all caſes where any legal officer, or perſon deputed by the juſtice of the peace, executing any proceſs for any debt or demand, the perſon executing the ſame ſhall take a bail bond, if required by the plaintiff, which requiſition ſhall be ſtated on the warrant, with ſufficient ſecurity for his, her or their appearance before a juſtice of the peace living neareſt to the plaintiff's place of abode, or where he uſually reſides, within the juriſdiction of the juſtice: Provided he is unconnected with the parties by blood or marriage; in that caſe the next neareſt juſtice. And if the perſon ſo bound ſhall fail to attend, the juſtice of the peace may proceed to try the cauſe, award judgment, and iſſue execution againſt the principal and ſecurities for debt and coſts, and if the defendant will not give ſecurity, if required by the plaintiff, it ſhall be the duty of the conſtable, or perſon ſerving the warrant, to bring him forthwith to trial or commit him to the goal of his county by order of any juſtice of the peace, there to remain until trial can be had, which ſhall take place as early as practicable.

3. *Be it enacted*, That from and after the paſſing of this act, the juſtices of the peace in the ſeveral counties in this ſtate, ſhall receive for granting attachment, and taking a bail bond, ſeventy five cents, and ſixty ſix cents for taking and encloſing and returning affidavits or depoſitions, when appointed for that purpoſe, and no other fees whatever,

4. *Be it enacted*, That where any perſon in future ſhall make application for a writ of certiorari and ſupercedeas to remove the proceedings of a juſtice of the peace, in any cauſe which has been determined, the party petitioning for ſuch writ, ſhall ſtate his reaſons upon oath, within twenty days after the date of the judgment, before any two juſtices of the peace; and if on examination ſuch reaſons ſhould be ſufficient, the ſaid juſtices ſhall direct the clerk of their county court to iſſue writs accordingly; and the ſaid clerk upon iſſuing ſuch writ, ſhall direct the juſtice of the peace, by whom the judgment was granted, to encloſe all the papers relative to ſaid ſuit, under hand and ſeal, and tranſmit the ſame to his office on the firſt day of the court next ſucceeding; and the ſaid clerk ſhall alſo iſſue a writ of ſupercedeas in all neceſſary caſes, which ſhall be directed to the officer in whoſe hands the execution may be, and the ſame ſhall be an effectual bar againſt all future proceedings by him thereon, and it ſhall be the duty of the ſaid officer, in all caſes, to notify the plaintiff of ſuch proceeding, to the end that he may avail himſelf of the advantage of

making his defence on the aforeſaid firſt day of the next ſucceeding court.

5. *Be it enacted,* That the conſtable or other officer ſhall be entitled to the following fees, viz: For executing a warrant fifty cents—For every ſummons, twenty five cents—For every execution or attachment, fifty cents—For whipping any perſon by order of court, or by order of any juſtice of the peace, thirty three cents—For every bail bond, twelve and an half cents. And in caſe any conſtable, or other legal officer, fail or refuſe to render the monies on executions put into his hands, within thirty days after the expiration of the ſtay, or twenty days, if no ſtay of execution is granted, unleſs by his return it ſhall appear no property can be found to ſatisfy the debt and coſts, it ſhall and may be lawful for the perſon aggrieved in the premiſes, or his attorney, to move for judgment againſt the officer herein offending, and his ſecurities, at the next county court wherein the delinquency happens. And it ſhall be the duty of the ſaid court, if on inveſtigation, it ſhall appear, to the court the conſtable or other legal officer ſo offending, is guilty of neglect in rendering the monies as aforeſaid, to order out execution againſt the delinquent officer and his ſecurities, for the debt and coſts complained of.

CHAP. VIII.

An act to amend an act entitled, "an act aſcertaining what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for, and paying public taxes."

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That ſo much of the third ſection of the above recited act as directs the court in each county, after the firſt day of January in each and every year, to appoint a juſtice of the peace for each captain's diſtrict, in the different counties, to receive liſts of taxable property, for the then preſent year, is hereby repealed, except for the enſuing year; and that at the laſt court in the year 1802, and in every ſucceeding year thereafter, in each and every county, the ſaid courts ſhall appoint a juſtice of the peace for each captain's diſtrict in the different counties, to receive liſts of taxable property and polls for the ſucceeding year; and if any juſtice of the peace ſo appointed to receive liſts of taxable property and polls as by law directed ſhall fail or neglect to take ſuch liſts, and make return to the clerk of their county as required, ſuch juſtice ſo failing or neglecting ſhall be fined at the diſcretion of the court not exceeding fifty dollars, unleſs ſufficient cauſe be ſhewn for ſuch failure, to be adjudged of by the court. And ſhould either of the clerks fail to furniſh the ſheriff of their county with a true liſt of the taxable property made to him as required, ſaid clerk ſo failing, ſhall be fined at the diſcretion of the court, not exceeding fifty dollars, unleſs ſufficient cauſe be ſhewn as aforeſaid.

3. *Be it enacted,* That ſo much of the ninth ſection of the above recited act, as impoſes a fine of fifty dollars for not re-

turning liſts of thhir taxable property ane polls is hereby repealed. And all fines impoſed by virtue of this act, ſhall be applied to the uſe of the county wherein the ſame may be.

CHAP. X.

An act authoriſing the county courts of pleas and quarter ſeſſions in particular caſes to appoint collectors of public and other taxes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That where any ſheriff hath failed or refuſed to give bond and ſecurity as required by law for the collection of taxes, that the court of the county where ſuch failure or refuſal hath taken place, ſhall elect a collector of public and other taxes, which collector, when ſo appointed and accepting, ſhall be entitled to the ſame perquiſites, have the ſame powers, and be ſubject to the ſame rules, regulations, penalties and forfeitures as collectors under the exiſting laws.

2. *Be it enacted,* That all collectors appointed under the authority of this act, ſhall have nine months from the time of their appointments to complete their reſpective collections, and make final ſettlement and payment of the monies which by law they ſhall be reſpectively authoriſed to collect.

3. *Be it enacted,* That this act ſhall be in force from and after the paſſing thereof.

CHAP. XI.

An act to compel plaintiffs who commence, and tenants againſt whom ejectments may iſſue to give bail.

WHEREAS it frequently happens, that perſons who have no titles to lands, take poſſeſſion thereof, and when declarations in ejectment are ſerved on them, either fail to come into court and make themſelves defendants, or after having made themſelves defendants, move away before a recovery is had, and thereby compel the perſons who have inſtituted ſuits to pay the coſts thereof, although they recover poſſeſſion of the lands:

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing of this act, when any perſon or perſons wiſh to inſtitute an action of ejectment, it ſhall and may be lawful for ſuch perſon or perſons to draw a declaration in ejectment as heretofore practiſed in this ſtate, and upon his or their producing the ſaid declaration to the clerk of the court in which he or they intend to inſtitute ſuit, and giving to the ſaid clerk ſuch bond and ſecurity for proſecuting ſaid ſuit as perſons inſtituting other ſuits are by law required to give, it ſhall be a duty of the ſaid clerk to iſſue a writ, directed to the ſheriff of the county in which the land ſued for lies, commanding him to take the perſon who is tenant in poſ-

ſeſſion of the ſaid land, and have him at the then next ſitting of the court in which the ſaid ſuit is commenced, to anſwer the plaintiff, viz: the nominal leſſee of a plea wherefore with force and arms, he broke and entered the cloſe of the ſaid plaintiff, and ejected him, to his damage five hundred dollars.

2. *Be it enacted*, That the ſheriff to whom the ſaid writ is directed, upon receiving the ſame, and alſo the declaration in ejectment, ſhall ſerve the ſaid declaration in ejectment on the tenant in poſſeſſion as heretofore, and ſhall alſo at the ſame time ſerve the ſaid writ, and take a bail bond with ſecurities, in the ſum mentioned in the ſaid writ, which bond ſhall be by him aſſigned to the leſſor of the plaintiff.

3. *Be it enacted*, That the ſaid tenant, againſt whom the ſaid writ iſſued, ſhall be liable and bound to pay, and judgment ſhall be given againſt him for the coſts and damages which may accrue or be recovered on ſuch ſuit, whether the poſſeſſion is recovered by default or by trial of the cauſe, and that execution may iſſue for ſuch coſts and damages.

4. *Be it enacted*, That the bail ſo taken by the ſheriff, ſhall be held and taken as ſpecial bail, and ſhall be proceeded againſt in the ſame manner as bail in other actions, and ſhall be compelled to pay all ſuch coſts and damages as may accrue or be recovered on the ſuit whether the recovery is had againſt the perſon for whom they were bail, by default or by trial of the cauſe: *Provided nevertheleſs*, That the ſaid bail ſhall have the ſame mode of exonerating themſelves as bail in other actions.

5. *Be it enacted*, That in no inſtance ſhall any perſon be admitted a defendant, unleſs he enter into the common rule, and at the ſame time give ſecurity for the coſts; and if the landlord of the tenant in poſſeſſion wiſh to become defendant, he ſhall alſo enter into the common rule and give ſecurity as aforeſaid, and the tenant and his ſecurities thereby ſhall be exonerated from the bail bond given by them to the ſheriff at the time of the ſervice of the writ.

CHAP. XII.

An act directing the duty of ſheriffs in cerain caſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That when any perſon is or may be appointed as ſheriff in and for any county, ſuch perſon ſhall immediately enter into bond with ſufficient ſecurity, payable to the governor for the time being, in ſuch penalty as the county court ſhall direct, conditioned for the collection and payment of all public and county taxes that may become due, during the time for which ſuch perſon ſhall be ſo appointed; and upon ſuch perſon failing to give bond and ſecurity as aforeſaid, the ſaid office ſhall be conſidered as vacant, and the ſaid court ſhall immediately proceed to appoint ſuch other proper and fit perſon to fill ſuch office as will comply with the above requi-

1801 ſitions, any law uſage, or cuſtom to the contrary notwithſtanding. And the ſheriff ſhall he allowed in the ſettlement of his accounts at the rate of ſix dollars on every hundred dollars of public and county taxes by him lawfully accounted for.

2. *Be it enacted*, That in writs of ſcire facias, it ſhall not be neceſſary to inſert that the ſame ſhall be made known before good and lawful men ; and the reading or making known the contents of ſuch writ to the perſon on whom to be executed, by the proper officer, ſhall be deemed a ſufficient execution thereof.

CHAP. XIII.

An act to amend the law relative to the levying of executions and the ſervice of certain other proceſs.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That when any execution may be levied on real or perſonal property, if the debtor ſhall give ſufficient ſecurity to the officer to have the goods and chattels forth coming at the day and place of ſale it ſhall be the duty of the officer to take a bond payable to the creditor for double the amount of the ſum in the execution, reciting the ſervice of the execution and the amount of the money due thereon ; conditioned for the true performance of the ſame, and if ſuch debtor fail to deliver the ſame property agreeable to the condition of the ſaid bond, or pay the money due thereon, the officer ſhall proceed immediately to execute ſo much of the property of the debtor as will be ſufficient to ſatiſfy the execution with coſts, if to be found in his bailiwick ; if property is not to be found ſufficient to ſatiſfy the execution belonging to the principal, then the officer ſhall proceed and levy the execution on the property of the ſecurity ſufficient to ſatiſfy the balance due on the execution, and make ſale of the ſame agreeable to the rules and reſtrictions as heretofore preſcribed by law in ſimimilar caſes.

2. *Be it enacted*, That it ſhall be the duty of the ſeveral courts of pleas and quarter ſeſſions, at the next court after the firſt day of January next, and as often after as may be found neceſſary, proceed to appoint one or more judicial freeholders in the bounds of each militia company of infantry, in their reſpective counties, for the purpoſe of valuing all property both real and perſonal, as ſhall hereafter be directed by this act, and before they proceed on their duty, ſhall take the following oath or affirmation (as the caſe may be) to wit:

I A. B. do ſolemnly ſwear (or affirm) that I will well and truly value all the property committed to my truſt agreeably to my appointment, without favour, affection, partiality or prejudice, to the beſt of my ſkill and ability—So help me God.

3. *Be it enacted*, That any ſheriff or other officer, that may levy an execution on any property, he ſhall, at the requeſt of the creditor or debtor, or either of their agents or attornies, if

leaſt five days before the day of ſale, ſummon three values to be appointed by this act, to attend at the day and place of ſuch ſale, and the aforeſaid ſheriff or other officer, for ſummoning ſuch freeholder as valuer, ſhall receive and be allowed twenty five cents, and ſuch freeholder, while in ſervice as a valuer, ſhall be allowed for each day fifty cents, to be paid by the defendant, and the valuer ſo notified, ſhall not be related by affinity or conſanguinity, if they or any one of then fail to appear at the time and place appointed, the parties or in caſe they cannot agree, the officer may appoint other diſcreet freeholders of the by ſtanders to fill ſuch vacancy who ſhall take the ſame oath as directed by this act, which oath the officer is empowered to adminiſter; and the valuers being complete as aforeſaid, ſhall proceed to value the property then under execution, and ſhall return to the officer a ſchedule of the amount of the property; and the officer ſhall proceed to ſell the ſame. If the property, or any lot of the property, will not ſell for two thirds of the valuation in ready money, it ſhall be lawful and optional with and for the creditor to take the ſame, or as much thereof as will be ſufficient to ſatisfy the execution, or what balance there may remain due thereon, at two thirds of the valuation as aforeſaid. If the creditor refuſe to take the property, and the debtor will give ſufficient ſecurity to ſtay the execution, the officer ſhall proceed to take a bond for the amount of the ſum that remains due on the execution, with intereſt till paid, payable to the creditor, in twelve months, which bond ſhall be under hand and ſeal of the debtor and his ſecurities; and on default or neglect, or refuſal to give bond as required, his goods and chattels, lands and tenements ſhall he expoſed to ſale, at the requeſt of the creditor, or ſo much thereof as will be ſufficient to ſatisfy the ſame without delay.

4. *Be it enacted*, That nothing herein contained ſhall be conſtrued to extend where the contracts may be made payable in money in the firſt inſtance. This act is provided altogether for debts and damages where the contracts may be payable and to be diſcharged in property only.

5. *Be it enacted*, That this law ſhall not be conſtrued as to affect or operate upon any contract or debt entered into, or judgment obtained previous to the paſſage thereof, any law, uſage or cuſtom to the contrary notwithſtanding.

6. *Be it enacted*, That this act ſhall be in force from and after the firſt day of January next.

CHAP. XIV.

An act to amend that part of the ſecond ſection of an act making proviſion for miſtakes in ſurveys of land, as requires a majority of the acting juſtices to be preſent when the relief is granted.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the paſſing of this act, it ſhall and may be lawful for a majority, or any number not leſs than five, of the acting juſtices in any county in this ſtate, when in ſeſſion, to grant relief to any perſon or perſons, bodies politic or corporate, agreeably to the above recited act, when thereunto requeſted.

CHAP. XV.

An act to empower ſecurities to recover damages in a ſummary way.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That in all caſes where judgment hath been or ſhall hereafter be entered up before any judicature within this ſtate, againſt any perſon or perſons as ſecurity or ſecurities, their heirs, executors, or adminiſtrators, upon any note, bill, bond or obligation, and the amount of ſuch judgment, or any part thereof, hath been paid or diſcharged by ſuch ſecurity or ſecurities, his, her or their heirs, executors, or adminiſtrators, it ſhall and may be lawful for ſuch ſecurity or ſecurities, his, her or their executors or adminiſtrators to obtain judgment by motion againſt ſuch principal obligor or obligors, his, her or their heirs, executors, or adminiſtrators, for the full amount of what ſhall have been paid by the ſecurity or ſecurities, his, her or their heirs, executors or adminiſtrators, in any court, or before any judicature, where judgment may have been entered up againſt ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, or within any other court or judicature in this ſtate upon the production of a copy of the record or judgment legally authenticated.

2. *Be it enacted,* That where the principal obligor or obligors have, or ſhall hereafter become inſolvent, and there have been, or ſhall be two or more ſecurities jointly bound with ſaid obligor or obligors in any bill, bond, note or other obligation, for the payment of money or other thing, and judgment hath been or hereafter ſhall be obtained againſt one or more of ſuch ſecurities, it ſhall and may be lawful for the court or judicature before whom ſuch judgment was or ſhall be obtained, upon motion of the party or parties againſt whom judgment hath been entered up as ſecurity as aforeſaid, to grant judgment and award execution againſt all and every of the obligors and their legal repreſentatives for their and each of their reſpective ſhares and proportions of the ſaid debt.

3. *Be it enacted,* That no ſecurity or ſecurities, his, her or their executors or adminiſtrators, ſhall be ſuffered to confeſs judgment, or ſuffer judgment to go by default, ſo as to diſtreſs his, her or their principal or principals, if ſuch principal or principals, will enter him, her or themſelves a defendant or defendants to the ſuit, and tender to the ſecurity or ſecurities his, her or their executors or adminiſtrators, other good & ſufficient collateral ſecurity, to be approved of by the court or judicature before whom the ſuit ſhall be depending.

4. *Be it enacted,* That in all caſes where judgment hath been

or ſhall hereafter be entered up before any judicature in this ſtate, againſt any perſon as bail for the appearance of another, to defend any ſuit depending in ſuch court or judicature, and the amount of ſuch judgment or any part thereof, hath been paid or diſcharged by ſuch bail, his, her, or their heirs, executors, or adminiſtrators, it ſhall and may be lawful for ſuch bail, his, her or their heirs, executors and adminiſtrators, to obtain judgment, by motion, againſt the perſon or perſons for whoſe appearance they were bound, his, her or their heirs, executors or adminiſtrators, for the full amount of what ſhall have been paid by the ſaid bail, his, her or their heirs, executors or adminiſtrators, in any court, or before any judicature where judgment may have been entered up againſt ſuch bail, or within any other court or judicature in this ſtate, upon the production of a copy of the record legally authenticated.

CHAP. XVII.

An act authoriſing the ſeveral courts to remove their clerks for miſbehavior in office.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That if any clerk of a court of record ſhall hereafter willingly, wittingly or corruptly do any act or thing contrary to the duties of his office as preſcribed by law, or in like manner omit or refuſe to perform any ſervices or duties required of him by any act or acts of the general aſſembly, he ſhall be deemed guilty of a miſbehavior in office, & on conviction thereof by indictment, the court of which he is clerk ſhall have full power and authority to remove him from office, and elect another in his ſtead: But nothing herein contained ſhall be conſtrued to prevent any clerk from appealing to the ſuperior court of his diſtrict as in other caſes.

2. *Be it enacted,* That immediately upon a bill being found againſt any clerk, the court may continue or ſuſpend him as may to them appear conſiſtent: And ſhould the court ſuſpend ſuch clerk, they ſhall appoint a clerk pro tempore, until a final deciſion can be had, who ſhall be entitled to the fees ariſing from ſaid office during his continuance therein: And if upon trial of the iſſue of traverſe the fact or facts ſhould not be ſupported, the court ſhall reinſtate ſuch clerk ſo ſuſpended; but ſhould the charge be ſupported, and be of the magnitude and deſcription mentioned in the firſt ſection of this act, the court ſhall have power to remove ſuch clerk and to appoint another: *Provided,* a majority of the acting juſtices be preſent.

3. *Be it enacted,* That ſo much of an act, entitled, "an act to direct the manner in which the ſeveral clerks and maſters in equity, of the ſuperior courts of law, clerks of the county courts, and the regiſters of each and every county, ſhall ſettle with the treaſurer of their reſpective diſtricts for the public taxes by them collected," as expreſſes that the clerks therein named may be impeached for failing to pay the public taxe

in manner therein preſcribed, is hereby repealed, and every other part of ſaid act ſhall continue in full force.

4. *Be it enacted*, That upon the ſuſpenſion or removal from office of any clerk, the court ſhall have power and authority to call for and demand of ſaid clerk, all records, papers and documents of what kind ſoever, belonging to his ſaid office. And in caſe the ſaid clerk ſhould fail or refuſe to deliver the ſaid records, papers, or documents, when thereto required and demanded, he ſhall forfeit and pay the ſum of five thouſand dollars, to be recovered by action of debt before any juriſdiction having cognizance thereof.

CHAP. XVIII.

An act concerning debtors and their ſecurities.

WHEREAS in many inſtances creditors have delayed to commence actions on bonds, convenants, bills, or promiſſory notes executed for money or ſpecific articles, until the principal debtor or debtors of ſuch creditors either becoming inſolvent or migrating from the ſtate, the innocent ſecurities of ſuch debtor or debtors have been ultimately compelled to diſcharge the amount of the money or ſpecific articles due by ſuch bond, covenant, bill, or promiſſory note, without the poſſibility of being afterwards reimburſed by ſuch principal debtor or debtors.—For remedy whereof,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That when any perſon or perſons ſhall hereafter become bound as ſecurity or ſecurities, by bond, bill, convenant, or note, for the payment of money or ſpecific articles, and ſhall apprehend that his, or their principal debtor or debtors is or are likely to become inſolvent, or migrate from the ſtate without previouſly diſcharging ſuch bond, convenant, bill or note ſo that it will be impoſſible or extremely difficult for ſuch ſecurity or ſecurities, after being compelled to pay the amount which may be due by ſuch bonds, convenants, bills, or notes, to recover the ſame back from ſuch principal debtor or debtors it ſhall and may be lawful for ſuch ſecurity or ſecurities in every ſuch caſe, provided ſuch bond, covenant, bill or note ſhall have been due and payable, to require, by notice in writing, of his or their creditor or creditors, forthwith to put the bond, covenant, bill, or note, by which he or they may be bound as ſecurity or ſecurities as aforeſaid, in ſuit; and unleſs the creditor or creditors ſo required, to put ſuch bond, convenant, bill or note in ſuit, ſhall within thirty days thereafter, commence an action on ſuch bond, covenant, bill or note, and proceed with due diligence in the ordinary courſe of law, to recover a judgment for, and by execution to make the amount due by ſuch bond, covenant, bill, or note, the creditor or creditors ſo failing to comply with the requiſitions of ſuch ſecurity or ſecurities, ſhall thereby forfeit the right which he or they would other-

wiſe have to demand and receive of ſuch ſecurity or ſecurities, the amount due by ſuch bond, covenant, bill or note.

2. *Be it enacted,* That any ſecurity or ſecurities, or in caſe of his or their death, then his or their executors or adminiſtrators may in like manner, and for the ſame cauſe, make ſuch requiſitions of the creditor or creditors of ſuch ſecurity or ſecurities, or of the executors or adminiſtrators of ſuch creditor or creditors, as it is herein before enacted may be made by a ſecurity or ſecurities of his or their creditor or creditors, and in caſe of the failure of the creditor or creditors, or the executors or adminiſtrators, ſo to proceed, ſuch requiſitions as aforeſaid being duly made, the ſecurity or ſecurities, his or their executors or adminiſtrators making the ſame, ſhall have the ſame relief that is herein before provided for a ſecurity or ſecurities, when his or their creditor or creditors or the executors or adminiſtrators of ſuch creditor or creditors ſhall be guilty of a ſimular failure.

3. *Be it enacted,* That it ſhall be lawful for the aſſignor or aſſignors of ſuch bonds, covenants, bills, and notes as aforeſaid, his, her, or their executors or adminiſtrators, whenever he or they may apprehend that the original drawer or drawers of ſuch inſtruments of writing as aforeſaid, are likely to become inſolvent or migrate and leave the ſtate, to require by notice in writing as aforeſaid, the aſſignee or aſſignees, his, her or their executors or adminiſtrators, forthwith to put ſuch bond, covenant, bill, or note as aforeſaid, in ſuit againſt the drawer or drawers, provided the ſame ſhall be due and payable; and unleſs the aſſignee or aſſignees, his, her, or their executors or adminiſtrators, ſo required to put ſuch bond, covenant, bill or note in ſuit, ſhall, within thirty days after ſuch notice as aforeſaid, commence an action thereon, and proceed as ſecurities are directed in the firſt ſection of this act againſt their principal, the aſſignee or aſſignees of ſuch inſtruments of writing as aforeſaid, ſhall thereby forfeit the right which he or they would otherwiſe have to demand and receive of ſuch aſſignor or aſſignors the amount which may be due by ſuch bond, covenant, bill or note.

4. *Be it enacted,* That where actions are brought againſt ſecurities or aſſignees as aforeſaid, to the true intent and meaning of this act, he, ſhe, or they may give this act in evidence: *Provided,* he or they prove in open court by two witneſſes, a copy of the notice aforeſaid to have been ſerved on the perſon or perſons bringing ſuch actions.

5. *Be it enacted,* That nothing in this act contained ſhall be ſo conſtrued as to affect bonds which may be entered into by guardians, executors, adminiſtrators, or public officers.

6. *Be it enacted,* That the rights and remedies of any creditor or creditors, againſt any principal debtor or debtors ſhall be in no wiſe affected by this act.

CHAP. XIX.

An act making judgment bonds lawful, and directing the mode of proceeding thereon.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing of this act, if any perſon or perſons ſhall enter into bond to ſecure the payment of any ſum or ſums of money, and therein authoriſe any perſon to confeſs judgment in any court of record, or before any juſtice of the peace having juriſdiction thereof, it ſhall and may be lawful for ſuch court or juſtice, on motion, and due proof of the bond made, to enter up judgment in favour of the creditor or creditors, at any time after the bond becomes due, and iſſue execution accordingly: *Provided always,* that no ſuch judgment ſhall be entered up, unleſs it ſhall appear to ſuch court or juſtice that a notice of the intention of the creditor to make ſuch motion at a particular day and place therein mentioned, has been ſerved on the debtor or debtors, or left at his, her, or their uſual place of abode by ſome ſworn officer, at leaſt ten days previous to the making of ſuch motion.

2. *Be it enacted,* That it ſhall be the duty of the ſheriff, conſtable, or other legal officer, as the caſe may be, to ſerve a copy of the ſaid notice, and make due return thereof; and he ſhall be liable to the ſame penalties for neglect or failure, and have the ſame fees for executing and returning the ſame as in caſe of ſubpœnas for witneſſes.

3 *Be it enacted,* That if the defendant or defendants ſhall appear purſuant to the notice, or on any day during the ſame ſeſſion of the court, and tender ſufficient ſecurity for the payment of the principal ſum due with intereſt thereon till paid and the coſts, the court ſhall cauſe the ſame to be entered on record, and thereupon execution ſhall be ſtayed as follows; For all ſums over fifty, and not exceeding one hundred dollars, three months—Over one hundred, and not exceeding two hundred dollars, ſix months—Over two hundred, and not exceeding four hundred dollars, nine months.—And for all ſums over four hundred dollars, twelve months—And, after the expiration the time limited for the ſtay as aforeſaid, then execution may iſſue againſt the defendant and his ſecurities, or either of them, for the principal ſum due, and intereſt and coſts as in other ſimilar caſes.

CHAP. XXI.

An act to amend an act, entitled, "An act to aſcertain the boundaries of land, and for perpetuating teſtimony."

Be it enacted by the General Aſſembly of the State of Tenneſſee, That all the privileges, benefits, and advantages ariſing under or accruing to others, by virtue of an act, entitled "an act to aſcertain the boundaries of land, and for perpetuating teſtimony," paſſed at Knoxville, in the year one thouſand ſeven hundred and ninety nine, ſhall extend to the citizens reſident ſouth of French Broad and Holſton, and between the rivers Big Pigeon and Tenneſſee, holding or claiming, or that may hold or claim land by right of occupancy, ſo far as may reſpect their rights to, or the conditional or boundary lines of their reſpective claims or rights of occupancy and pre emption in that tract of country, any thing in the proviſo to the fourth ſection of ſaid recited act to the contrary notwithſtanding.

CHAP. XXII.

An act for the reſtraint of idle and diſorderly perſons.

WHEREAS it becomes neceſſary for the welfare of the community, to ſuppreſs wandering, diſorderly and idle perſons:

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That any perſon or perſons who have no apparent means of ſubſiſtence, or neglect applying themſelves to ſome honeſt calling for the ſupport of themſelves and families, every perſon ſo offending, who ſhall be found ſauntering about neglecting his buſineſs, and endeavoring to maintain himſelf by gaming or other undue means, it ſhall and may be lawful for any juſtice of the peace of the county wherein ſuch perſon may be found, on due proof made, to iſſue his warrant for ſuch offending perſon, and cauſe him to be brought before ſaid juſtice, who is hereby empowered, on conviction, to demand ſecurity for his good behaviour, and in caſe of refuſal or neglect, to commit him to the goal of the county, for any term not exceeding five days, at the expiration of which time he ſhall be ſet at liberty if nothing criminal appears againſt him, the ſaid offender paying all charges ariſing from ſuch impriſonment; and if ſuch perſon ſhall be guilty of the like offence from and after the ſpace of thirty days, he, ſo offending, ſhall be deemed a vagrant, and be ſubject to one month's impriſonment, with all coſts accruing thereon, which if he neglects or refuſes to pay, he may be continued in priſon until the next court of the county, who may proceed to try the ſaid offender, and if found guilty by a verdict of a jury of good and lawful men, ſaid court may proceed to hire the offender for any ſpace of time not exceeding ſix months, to make ſatisfaction for all coſts, but if ſuch perſon or perſons ſo offending, be of ill fame, ſo that he or they cannot be hired for the coſts, nor give ſufficient ſecurity for the ſame and his future good behaviour, in that caſe it ſhall and may be lawful for the ſaid court to cauſe the offender to receive not exceeding thirty nine laſhes, on his bare back, after which he ſhall be ſet at liberty, and the coſts ariſing thereon ſhall become a county charge; which puniſhment may be inflicted as often as the perſon may be guilty, allowing thirty days between the puniſhment and the offenſe.

2. *Be it enacted*, That it ſhall not be lawful for any perſon or perſons of ill fame or ſuſpicious character, to remove him or themſelves from one county to another in this ſtate, without firſt obtaining a certificate from ſome juſtice of the peace of ſaid county or captain of his company, ſetting forth his intention in removing, whether to ſettle in ſaid county, or if travelling, to ſet forth his buſineſs and deſtination, and if ſuch traveller ſhould be deſirous to ſtay in any county longer than ten days, he ſhall firſt apply to ſome juſtice of ſaid county for leave, and obtain a certificate for that purpoſe, ſetting forth the time of his permiſſion, and if ſuch perſon ſhall be found loitering in ſaid county after the expiration of his permit, or fail to obtain the ſame agreeable to the true intent and meaning of this act, ſuch perſon or perſons ſo offending, may be apprehended by any perſon or perſons, and carried before ſome juſtice of the peace, who may enquire into his character and buſineſs; and fine him at his diſcretion, not exceeding ten dollars; but if ſaid traveller ſhall be found on examination, to be a perſon of ill fame, and there is reaſon to ſuſpect he is loitering in ſaid county for evil purpoſes, attempting to acquire a living by gambling, or other bad practices, ſuch juſtice ſhall have power to commit any perſon of like character, until he ſhall find good and ſufficient ſecurity for his good behaviour, for any time not exceeding ten days, and ſaid juſtice of the peace or court of the county, ſhall proceed againſt ſuch offender, in the ſame manner as is heretofore preſcribed for vagrants.

3. *Be it enacted*, That all and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables commonly called A. B. C. or E. O. tables, or faro bank, or of any other gaming cloth table, or bank of the ſame, or like kind, under any denomination whatever, ſhall be deemed and treated as a vagrant, and moreover it ſhall be the duty of any judge or juſtice of the peace, by warrant under his hand, to order ſuch gaming table or cloth to be ſeized and publicly burned or deſtroyed; ſaid warrant ſhall be directed to ſome one conſtable within the county, whoſe duty it ſhall be, forthwith to execute the ſame: *Provided*, That nothing herein contained, ſhall be ſo conſtrued as to extend to billiard tables.

4. *Be it enacted*, That it ſhall not be lawful for any houſe keeper to harbour any idle perſon of the character aforeſaid, for any longer time than is heretofore ſpecified, under the penalty of twenty dollars for every ſuch offence, to be recovered by warrant before any juſtice of the peace of the county where the offence is committed.

5. *Be it enacted*, That it ſhall be the duty of each juſtice of the peace, on information being made on oath to him or them, that there is perſon or perſons of the aforeſaid deſcription, loitering in his or their county, then and in that caſe he or they ſhall iſſue his or their warrant againſt ſuch perſon or perſons agreeable to this act: *And provided*, he or they ſhall neglect or refuſe ſo to do, it ſhall be deemed a miſdemeanor in office, for which he or they ſhall be impeachable, and on conviction be removed from office.

6. *Be it enacted*, That if any perſon or perſons ſhall publicly ride or go armed to the terror of the people, or privately carry any dirk, large knife, piſtol or any other dangerous weapon, to the fear or terror of any perſon, it ſhall be the duty of any judge or juſtice, on his own view, or upon the information of any other perſon on oath, to bind ſuch perſon or perſons to their good behaviour, and if he or they fail to find ſecurities, commit him or them to goal, and if ſuch perſon or perſons ſhall continue ſo to offend, he or they ſhall not only forfeit their recognizance, but be liable to an indictment, and be puniſhed as for a breach of the peace, or riot at comman law.

7. *Be it enacted*, That if any perſon or perſons ſhall unlawfully cut out or diſable the the tongue, put out an eye, ſlit a noſe, bite or cut off a noſe, ear or lip, or cut off or diſable any limb or member, or ſtab any peeſon whatſoever, in doing ſo, to maim, wound or disfigure in any of the manners before mentioned, ſuch perſon or perſons ſo offending, their counſellors, aiders and abettors, knowing of, and privy to the offence, ſhall be and are hereby declared to be felons, and ſhall ſuffer as in caſe of felony : *Provided neverthele ſs*, he or they ſhall be entitled to benefit of clergy, and be further liable to an action of damages to the party injured.

8. *Be it enacted*, That all fines inflicted by this act, ſhall be one half to him that will ſue for the ſame, and the other half to the uſe of the county.

9. *Be it enacted*, That all laws and parts of laws which come within the meaning and purview of this act, are hereby repealed.

CHAP. XXIII.

An act to authoriſe the ſeveral county courts of pleas and quarter ſeſſions to remit and mitigate fines and forfeitures on recognizances as therein mentioned.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the ſeveral courts of pleas and quarter ſeſſions in this ſtate ſhall have power to remit or mitigate all fines by them inflicted, and all forfeitures on recognizances, previous to entering final judgment thereon : Provided, a majority, or any number not leſs than nine of the juſtices of ſaid county be preſent when ſuch remittance or mitigation ſhall be made.

2. *Be it enacted*, That ſo much of any other act as comes within the purview and meaning of this act is hereby repealed.

CHAP. XXIV.

An act concerning adminiſtrations granted on the eſtates of perſons dying inteſtate, therein mentioned.

WHEREAS heretofore the courts of pleas and quarter ſeſſions, during the being of the temporary government called

Franklin, granted adminiſtrations on the eſtates of perſons who died inteſtate, and have iſſued letters of adminiſtration accordingly, in virtue and by authority of which, the perſons ſo adminiſtering, have proceeded to adminiſter upon the goods and chattels, rights and credits of their inteſtates reſpectively: And whereas it will contribute to the peace and quiet of families, that adminiſtrations on ſuch eſtates, ſo as aforeſaid granted, be deemed and declared valid.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That all adminiſtrations granted by any of the ſaid courts of pleas and quarter ſeſſions, and letters of adminiſtration by any of the aforeſaid courts iſſued, on the eſtate or eſtates of any perſon who died inteſtate, and all proceedings in virtue of ſuch letters of adminiſtration had and done, of, and concerning any ſuch eſtate, agreeably to, and in conformity with the rules and regulations of law reſpecting the eſtates of perſons dying inteſtate, and granting adminiſtration thereon, at that time in force and uſe in the ſtate of North Carolina, ſhall be held and deemed, taken and adjudged, and are hereby declared to be good and valid to all intents and purpoſes whatſoever.

2. *Be it enacted*, That in any queſtion or controverſy that may ariſe, of or concerning the granting adminiſtration by any of the courts of pleas and quarter ſeſſions in the firſt ſection of this act mentioned, and iſſuing letters of adminiſtration, or of or concerning any proceedings had in virtue and by authority of ſuch adminiſtration ſo granted, and letters of adminiſtration thereon iſſued, no plea or exception to the juriſdiction of the court granting ſuch adminiſtration, ſhall be admitted or allowed in any court of law or equity in this ſtate.

CHAP. XXV.

An act to prevent frauds and perjuries.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That no action ſhall be brought whereby to charge any executor or adminiſtrator upon any ſpecial promiſe, to anſwer any debt or damages out of his own eſtate, or whereby to charge the defendant upon any ſpecial promiſe to anſwer for the debt, default or miſcarriage of another perſon, or to charge any perſon upon any agreement made upon conſideration of marriage, or upon any contract for the ſale of lands, tenements or hereditaments, or the making any leaſe thereof for a longer term than one year, or upon any agreement which is not to be performed within the ſpace of one year from the making thereof, unleſs the promiſe or agreement upon which ſuch action ſhall be brought, or ſome memorandum or note thereof ſhall be in writing, and ſigned by the party to be charged therewith, or ſome other perſon by him thereunto lawfully authoriſed.

2. *Be it enacted*, That every gift, grant, conveyance of lands, tomments, hereditaments, goods or chattels, or of any rent, tenemon, or profit out of the ſame by writing or otheerwiſe

and every bond, ſuit, judgment, or execution, had, or made and contrived of malice, fraud, covin, colluſion, or guile, to the intent or purpoſe to delay, hinder, or defraud creditors of their juſt and lawful actions, ſuits, debts, accounts, damages, penalties or forfeitures, or to defraud or deceive thoſe who ſhall purchaſe the ſame lands, tenements or hereditaments, or any rent, profit or commodity out of them, ſhall be henceforth deemed, and taken only as againſt the perſon or perſons, his, her, or their heirs, ſucceſſors, executors, adminiſtrators or aſſigns, and every of them, whoſe debts, ſuits, demands, eſtates, intereſts, by ſuch guileful and covenous devices and practices as aforeſaid, ſhall or might be in any wiſe diſturbed, hindered, delayed, or defrauded, to be clearly and utterly void, any pretence, colour, feigned conſideration, expreſſing of uſe, or any other matter or thing to the contrary notwithſtanding. And moreover if a conveyance be of goods or chattels, and be not on conſideration deemed valuable in law, it ſhall be taken to be fraudulent within this act, unleſs the ſame be by will duly proved and recorded, or by deed in writing, acknowledged or proved, if the ſame deed include lands alſo, in ſuch manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by one or more witneſs or witneſſes in any court of record and regiſtered in the regiſter's office of the county, where the ſaid goods and chattels, or the moſt valuable part of them are, within eight months after the execution thereof, or unleſs poſſeſſion ſhall really and bona fide remain with the donee ; and in like manner where any loan of goods and chattels, ſhall be pretended to have been made to any perſon with whom, or thoſe claiming under him, poſſeſſion ſhall have remained by the ſpace of five years without demand made and perſued by due proceſs at law on the part of the pretended lender, or where any reſervation or limitation ſhall be pretended to have been made of a uſe of property by way of condition, reverſion, remainder or otherwiſe, in goods or chattels, the poſſeſſion whereof ſhall have remained in another as aforeſaid, the ſame ſhall be taken as to the creditors and purchaſers of the perſons aforeſaid ſo remaining in poſſeſſion, to be fraudulent within this act, and that the abſolute property is with the poſſeſſion, unleſs ſuch loan, reſervation, or limitation of uſe or property were declared by will or by deeds, in writing, proved and recorded as aforeſaid. 1081

3. *Be it enacted*, That this act ſhall not extend to any eſtate or intereſt in any lands, goods or chattels, or any rents common or profit out of the ſame, which ſhall be upon good conſideration, and bona fide lawfully conveyed or aſſured to any perſon or perſons, bodies politic or corporate, or to any perſon lending his own property to any perſon or perſons without an intention of fraud.

4. *Be it enacted*, That this act ſhall commence and be in force from and after the firſt day of January next.

CHAP. XXVI.

An act in addition to an act, entitled, "An act to amend an act eſtabliſhing courts of law and regulating the proceedings therein."

WHEREAS it is found that the diſtrict goals in ſome inſtances are inſufficient for the purpoſe of ſecuring criminals and offenders, to remedy which, and to procure a ſpeedy and impartial trial of offenders, according to the proviſions of the conſtitution,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That in all caſes where the offenders ſhall have been committed to, or impriſoned in the diſtrict goal, and the governor for the time being ſhall be of opinion that there is a probability of an eſcape, or that the principles of juſtice or humanity require a ſpeedy trial, it ſhall be his duty to iſſue a commiſſion to the judges of the ſuperior court, empowering them, or any one of them to hold a court of oyer and terminer, purſuant to the thirty eighth ſection of the aforeſaid act.

2. *Be it enacted*, That whenever the ſaid commiſſion ſhall be delivered to any one of the ſaid judges, it ſhall be his duty, and he is hereby required to iſſue a venire facias to the ſheriff of the county where the diſtrict court is held, and to any adjoining county, if neceſſary, commanding him or them to ſummon thirty five good and lawful men, to appear on a certain day therein to be ſpecified, at the diſtrict court houſe, out of which number ſhall be taken a grand jury, to enquire of, and preſent the offence with which ſuch offender may ſtand charged, by ballot, agreeably to the law in force, and the balance of the ſaid jurors ſhall ſerve as a petit jury, on the trial of ſuch offender, ſaving to ſuch offender, the right of challenge to jurors as heretofore, *Provided*, That there ſhall be allowed by the ſaid judge, a ſufficient time to enable the ſaid priſoner to procure his teſtimony, as well as the ſtate, and for the ſaid ſheriff or ſheriffs to ſummon jurors as aforeſaid. *And be it further provided*, That if by challenge or otherwiſe, there ſhall not be a ſufficient number of the ſaid original panel, or there ſhould be none of the ſaid original penal to make a petit jury for the trial of the aforeſaid priſoner, then and in thoſe caſes byſtanders may he ſummoned inſtanter, as taliſmen, or to make a petit jury.

3. *Be it enacted*, That immediately upon the receipt of the ſaid commiſſion, ſuch judge ſhall notify in writing each of the other judges, if convenient, and the ſtate's attorney to attend at ſaid trial, and alſo the priſoner, ſtating particularly the time and place upon which it ſhall be the duty of the ſheriff to ſerve ſuch notices, *Provided always*, That if it ſhall be neceſſary for the purpoſe of juſtice, the ſaid judge or judges holding court, may if the bill be found true, adjourn the court to ſome further day.

4. *Be it enacted*, That nothing herein contained ſhall be ſo conſtrued as to entitle ſaid judge or judges to receive any

compenſation or ſalary heretofore eſtabliſhed by law, or otherwiſe, for holding ſaid court or courts, but may be allowed therefor by the ſucceeding legiſlature, next after the year of 1804.

5. *Be it enacted*, That all acts and parts of acts, coming within the purview of this act, ſhall be and are hereby repealed.

CHAP. XXVII.

An act empowering the county courts to emancipate ſlaves.

WHEREAS the number of petitions preſented to this legiſlature praying the emancipation of ſlaves not only tend to involve the ſtate in ſerious evils, but are alſo productive of great expence: For remedy whereof:

1. *Be it enacted by the General Assembly of the State of Tennessee*, That when any perſon or perſons being reſident of this ſtate, and owners of ſlaves which they are deſirous of ſetting free, they ſhall prefer a petition to the court of the county in which they reſide, ſetting forth the intention and motives for ſuch emancipation, and if the court upon examining the reaſons ſet forth in ſaid petition, ſhould be of opinion, that acceding to the ſame would be conſiſtent with the intereſt and policy of the ſtate, the chairman thereof ſhall report on the petition accordingly, and ſign his name thereto, which petition ſhall be filed in the office of the clerk of ſaid county. But no petition ſhall be granted, unleſs the petitioner firſt enter into bond with approved ſecurity, in ſuch ſum as the court may think proper, to reimburſe ſuch damages as the county may ſuſtain, in conſequence of ſuch ſlave or ſlaves becoming chargeable, and upon theſe requiſitions being complied with, ſuch ſlave ſhall be held and deemed free, and entitled to all the privileges and immunities that other free people of colour in this ſtate are.

2. *Be it enacted*, That when any perſon or perſons liberated by virtue of this act, ſhall by any ways or means be rendered incapable of providing for him or herſelf the common neceſſaries of life, ſuch ſlave or ſlaves ſhall be provided for by the county in which he or ſhe was emancipated, and may be removed thereto from any other county, there to be provided for in the manner directed by an act, entitled, "an act making proviſion for the poor," paſſed at Knoxville, October the twentieth, one thouſand ſeven hundred and ninety ſeven.

3. *Be it enacted*, That no county county as aforeſaid, ſhall receive a petition for emancipation, unleſs nine, or a majority of the juſtices of peace of ſaid county be preſent, and in either caſe a concurrence of two thirds muſt be had, in order to liberate any ſlave.

4. *Be it enacted*, That the clerk of the court ſhall record all proceedings of emancipation, and make out a certificate to the ſlave or ſlaves who may be liberated by virtue of this act, for which his fees ſhall be equal to fees for ſervices of ſimilar extent, and ſhall be paid by the maſter of ſaid ſlave or ſlaves.

CHAP. XXX.

An act prohibiting any ſtates attorney or ſolicitor of a county, from preferring a bill of indictment to any grand jury, without a proſecutor marked thereon.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That no ſtates' attorney, or ſolicitor of a county, ſhall prefer a bill of indictment to any grand jury in this ſtate, without a proſecutor marked thereon, any law to the contrary notwithſtanding.

2. *Be it enacted*, That if any ſtates atttorney, or county ſolicitor, ſhall prefer a bill of indictment againſt any perſon or perſons, contrary to the true intent and meaning of this act, the party or parties againſt whom ſuch bill ſhall be preferred, may give this act in evidence; and the court ſhall order him or them to be diſcharged and the ſtates' attorney or county ſolicitor ſhall be anſwerable for the coſt which may have accrued on ſuch bill, and execution may iſſue againſt him or them for the ſame.

3. *Be it enacted*, That nothing contained in the firſt and ſecond ſections of this act ſhall be conſtrued to extend to any preſentments made by the grand jury, or to any bill of indictment founded thereon.

CHAP. XXXI.

An act to carry into effect a reſolution of Congreſs, paſſed the twenty-ninth day of September, in the year one thouſand ſeven hundred and eighty-nine.

WHEREAS it is recommended by a reſolve of the firſt ſeſſion of the Congreſs of the United States, to the legiſlatures of the ſeveral ſtates, to paſs laws making it expreſsly the duty of keepers of the goals, to receive and ſafe keep therein, all perſons committed under the authority of the United States, until they ſhall be diſcharged by the due courſe of the laws thereof, under the like penalties as in the caſe of priſoners committed under the authority of ſuch ſtates reſpectively; the United States promiſing on their part to pay for the uſe and keeping of ſuch goals, at the rate of fifty cents per month, for each priſoner who ſhall be committed under their authority, during the time ſuch priſoner ſhall be confined therein, and alſo ſupport ſuch of ſaid priſoners as ſhall be committed for offence:

1. *Be it enacted by the General Aſſembly of the State of Tennes-ſee*, That when any priſoners ſhall be delivered to the keeper of any goal in this ſtate, by or under the authority of the United States, ſuch keeper is hereby commanded to receive and ſafely keep every ſuch priſoner or priſoners; and all and every keeper or keepers of any goal in this ſtate, refuſing or neglecting to take poſſeſſion of, and ſafely keep any priſoner or priſoners delivered to him or them, by or under the authority of the United States aforeſaid, ſhall be ſubject to the ſame pains and penalties as for neglect or refuſal to receive

and ſafely keep any priſoner or priſoners delivered them under the authority of this ſtate : *Provded*, that in all caſes in which the United States ſhall be a party, the marſhal or perſon delivering ſuch priſoner, and in all civil caſes the party at whoſe inſtance ſuch priſoner ſhall be committed, ſhall be liable to ſuch goaler or keeper, for the priſon fees and ſubſiſtence of ſuch priſoner, while ſo impriſoned; which priſon fees and ſubſiſtence ſhall be the ſame as are or may be provided for by law, for priſoners committed under the authority of the ſtate.

2. *Be it enacted*, That the monies ariſing from the aforeſaid fifty cents per month as ſtated in the preamble of this act, ſhall be collected from the marſhal by the goaler receiving any priſoner as aforeſaid, who is hereby directed to pay the ſame to the treaſurer or truſtee of his county, immediately after receiving the ſame, which monies ſhall be by ſaid treaſurer or truſtee accounted for in the ſame manner as other county monies.

CHAP. XXXII.

An act to prevent the evil practice of duelling.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That from and after the paſſing of this act, if any perſon or perſons ſhall attempt to fight a duel, by challenge, or otherwiſe, he or they on conviction thereof, ſhall forfeit and pay the ſum of fifty dollars, and ſhall further be committed to cloſe goal for ſixty days, and there to remain without bail or mainprize, and alſo forfeit the rights and privileges of a citizen for and during the ſpace of one year thereafter; and if any perſon or perſons ſhall bear a challenge from one perſon to another, to fight a duel, the perſon bearing the ſame, on due proof being made thereof, ſhall forfeit and pay the ſum of fifty dollars, and ſhall be committed to cloſe goal for and during the ſpace of thirty days, there to remain without bail or mainprize.

2. *Be it enacted*, That if any perſon ſhall hereafter accept any challenge to fight a duel, he, ſo accepting, ſhall forfeit and pay the ſum of fifty dollars, and alſo forfeit all his rights and privileges of citizenſhip, for and during the ſpace of one year thereafter.

3. *Be it enacted*, That if any perſon ſhall hereafter fight a duel and either of the perſons ſo fighting be killed, it ſhall be held and deemed wilful murder by the ſurviving perſon, who ſhall ſuffer death without benefit of clergy.

4. *Be it enacted*, That each and every juſtice of the peace in this ſtate, ſhall have juriſdiction of all matters and things in this act contained, except caſes of murder, and therein, ſo far as commitment to the proper goal deſignated for crimnal offences, and each and every of ſaid juſtices of the peace, and other civil officers in this ſtate, are hereby enjoined to take cognizance thereof.

5. *Be it enacted*, That all fines and forfeitures ariſing by

virtue of this act, ſhall be one half to the perſon who will ſue for the ſame, the other half to the uſe of the ſtate, any law, uſage or cuſtom to the contrary notwithſtanding.

6. *Be it enacted*, That all laws and parts of laws, coming within the purview and meaning of this act, ſhall be, and are hereby repealed.

CHAP. XXXIII.

An act declaring that there ſhall be but one attorney general for the ſtate, aſcertaining his duty and compenſation for his ſervices and repealing the former act on that ſubject.

4. *Be it enacted*, That after the paſſing of this act, the attorney general ſhall be allowed the following fees, to be included in the bill of coſts, viz. In each proſecution in either of ſaid courts, where the grand jury ſhall return a true bill, three dollars, and where the grand jury ſhall return not a true bill, one dollar and fifty cents, and in every caſe removed from any county court into either of ſaid ſuperior courts, three dollars, any thing in any act or acts to the contrary notwithſtanding.

5. *Be it enacted*, That an act, entitled, "An act aſcertaining the number of attornies general to be appointed in the ſtate of Tenneſſee, for fixing their ſalaries and directing their duties in office," paſſed at a ſeſſion of the general aſſembly began and held at Knoxville, on Monday the twenty eighth day of March, one thouſand ſeven hundred and ninety ſix, be, and the ſame is hereby repealed.

CHAP. XXXIV.

An act to amend an act reſpecting ſtrays.

1. *Be it enacted by the General Assembly of the State of Tennessee*, That every appraiſer ſo appointed, agreeably to the above recited act, ſhall return the certificate of ſuch appraiſment to the taker up of ſuch ſtray or ſtrays, who ſhall be, and is hereby bound to return the ſame to the ranger of the county within fifteen days after ſuch appraiſment made, under the penalty of the appraiſment value of ſuch ſtray or eſtrays ſo taken up, to be recovered before any juriſdiction having cognizance thereof, one half to the uſe of the county and the other half to him or them that will ſue for the ſame.

2. *Be it enacted*, That every perſon taking up any ſtray or ſtrays, ſhall not directly or indirectly remove any ſuch ſtray or ſtrays out of the county where the ſame was ſo taken up, or ſell or diſpoſe of the ſame, in any manner whatſoever, within twelve months, under the penalty of double the amount of the appraiſed value of ſuch ſtray or ſtrays, to be recovered before any juriſdiction having cognizance thereof one half to the uſe of the county, the other half to him or them that will ſue for the ſame.

3. *Be it enacted,* That if any perſon taking up any ſtray or eſtrays ſhall be about to remove him or herſelf out of the county, before him or her have ſettled with the county truſtee, to the full amount of *the one half* of the appraiſed value of ſuch ſtray or eſtrays, that then and in that caſe, the truſtee of ſuch county, on his own knowledge or otherwiſe, is hereby required to ſue ſuch perſon by warrant, and cauſe him or her to appear before ſome juſtice of the peace, to give bond with ſufficient ſecurity, payable to ſuch truſtee for the uſe of ſaid county, or owner, to the full amount of two thirds of the appraiſed value of ſuch ſtray or eſtrays, by him or her ſo taken up; and in caſe of failure thereof, ſuch perſon ſhall forfeit double the appraiſed value of ſuch ſtray or eſtrays, to be recovered by the ſaid truſtee on an action of debt.

CHAP. XXXV.

An act to prevent the diſturbance of public worſhip.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That if any perſon ſhall interrupt a congregation aſſembled for the purpoſe of worſhipping the deity, ſuch perſon ſhall be dealt with as a rioter at common law.

CHAP. XXXVI.

An act to ſuſpend the the ſecond ſection of an act, entitled, "An act reſpecting dollars and cents, and contracts, and the manner of keeping accounts, ſo far as reſpects the currency in which contracts ſhall be made and accounts kept

Be it enacted by the General Aſſembly of the State of Tenneſſee, That the ſecond ſection of the above recited act, is ſuſpended until the next ſtated general aſſembly.

CHAP. XXXVIII.

Ad act to repeal ſo much of an act entitled, "An act to ſuppreſs exceſſive gaming" as reſpects the fines on billiard tables and horſe racing.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing of this act, that no money or any kind of property whatever, won by any ſpecies or mode of gaming ſhall be recoverable by law.

2. *Be it enacted,* That the law impoſing fines by the before recited act, ſo far reſpects billiard tables and horſe racing, be and the ſame is hereby repealed, any law to the contrary notwithſtanding.

CHAP. XXXIX.

An act to appoint agents to ſettle the diſpute exiſting between this ſtate and the United States relative to the vacant and unappropriated lands within this ſtate, and to procure the relinquiſhment of the claim of the United States to the ſame.

WHEREAS it appears by communications made to this general aſſembly, by the ſenators of this ſtate in the congreſs of the United States, that the United States claim a right to diſpoſe of the vacant and unappropriated ſoil within the limits of this ſtate, in order that a determination may be made, whether the United States or the ſtate of Tenneſſee have the right to diſpoſe of the ſaid lands,

Be it enacted by the General Assembly of the State of Tennessee, That the ſenators and repreſentatives of this ſtate, and their ſucceſſors, or a majority of them, are hereby veſted with full power and authority, as agents on the part of this ſtate, to claim the abſolute right of diſpoſing of the vacant and unappropriated ſoil within the ſame, and to have the claim of the United States and the claim of this ſtate examined and determined: And in order to prevent all future diſpute, the ſaid ſenators and repreſentative or their ſucceſſors, or a majority of them are hereby authoriſed to procure from the United States a relinquiſhment of their claim to the ſaid land, in ſuch manner and upon ſuch terms as to the ſaid agents hereby appointed, may ſeem proper.

CHAP. XL.

An act to amend an act, entitled, "An act to amend the law now in force in this ſtate for ſelling lands under execution."

Be it enacted by the General Assembly of the State of Tennessee, That all lands to be hereafter ſold by any ſheriff, which are directed to be advertiſed in a public gazette, ſhall be advertiſed in the gazette of the diſtrict where the land lies, if there be one, if not, then in the gazette neareſt to where the land lies, any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. XLI.

An act to repeal ſo much of the third ſection of an act, preſcribing what ſhall be the legal probate of deeds and conveyances of lands and mortgages, where ſuch probate ſhall be made without the limits of this, and within the limits of the United States, and for other purpoſes as hereinafter mentioned.

Be it enacted by the General Assembly of the State of Tennessee, That the following words of the above recited ſection, "*Pro-*

vided, he, ſhe or they do pay a reaſonable rent for ſaid improvement, to be deducted out of the ſame," which words are hereby repealed and made void, any law to the contrary notwithſtanding.

CHAP. LXX.

An act to prevent the obſtruction of the navigation of certain rivers therein mentioned.

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That it ſhall not be lawful for any perſon to obſtruct the navigation of Stones river, from its mouth to the main weſt fork of ſaid river, in Davidſon county; nor Little river, in and adjoining the county of Blount, from its mouth to Bradley's mill.

2. *Be it enacted*, That if any perſon ſhall obſtruct either of the aforeſaid rivers, he ſhall be ſubject to the ſame penalties of offenders who are guilty of obſtructing roads or highways.

LAWS OF TENNESSEE.

Paſſed at the firſt ſeſſion of the fifth General Aſſembly, began and held at Knoxville, on Monday the nineteenth day of September, one thouſand eight hundred and three.

CHAP. I.

An act for the better eſtabliſhment and regulation of the militia of this ſtate.

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That all free men and indented ſervants from the age of eighteen to forty five years, ſhall compoſe the militia of this ſtate; judges of the ſuperior courts of law and equity, ſecretary of ſtate, treaſurers, attorney general, miniſters of the goſpel of every denomination, public ferrymen, juſtices of the peace, and all continental officers who have ſerved three years with reputation, or during the war, poſt officers who have the care of the mail of the United States, and poſt riders ſhall be exempt, from militia duty, except in caſes of imminent danger, inſurrection or invaſion.

2. *Be it enacted*, That the militia of this ſtate ſhall be divided and deſignated as follows, viz.

The militia of Waſhington county ſhall compoſe the firſt regiment.

The militia of Sullivan county ſhall compoſe the ſecond regiment.

The militia of Greene county ſhall compoſe the third regiment.

The militia of Hawkins county ſhall compoſe the fourth regiment.

And the militia of Carter county ſhall compoſe the fifth regiment—which regiments ſhall conſtitute the firſt brigade.

The militia of Jefferſon county ſhall compoſe the ſixth regiment.

The militia of Grainger county ſhall compoſe the ſeventh regiment

The militia of Cocke county ſhall compoſe the eighth regiment.

And the militia of Claiborne county ſhall compoſe the ninth regiment—which regiments ſhall conſtitute the ſecond brigade.

The militia of Knox county ſhall compoſe the tenth regiment.

The militia of Sevier county ſhall compoſe the eleventh regiment.

The militia of Blount county ſhall compoſe the twelfth regiment.

The militia of Anderſon county ſhall compoſe the thirteenth regiment.

And the militia of Roane county ſhall compoſe the fourteenth regimen—which regiments ſhall conſtitute the third brigade; which brigades ſhall compoſe the firſt diviſion.

The militia of Sumner county ſhall compoſe the fifteenth regiment.

The militia of Smith county ſhall compoſe the ſixteenth regiment.

The militia of Wilſon county ſhall compoſe the ſeventeenth regiment.

And the militia of Jackſon county ſhall compoſe the eighteenth regiment—which regiments ſhall conſtitute the fourth brigade.

The firſt regiment of militia of Davidſon county ſhall compoſe the nineteenth regiment; and the ſecond regiment of ſaid county the twentieth regiment.

The militia of Williamſon county ſhall compoſe the twenty firſt regiment.

And the militia of Rutherford county ſhall compoſe the twenty ſecond regiment—which regiments ſhall conſtitute the fifth brigade.

The militia of Robertſon county ſhall compoſe the twenty third regiment,

The militia of Montgomery county ſhall compoſe the twenty fourth regiment.

The militia of Dickſon county ſhall compoſe the twenty fifth regiment.

And the militia of Stewart county ſhall compoſe the twenty ſixth regiment—which regiments ſhall conſtitute the ſixth brigade; which brigades ſhall conſtitute the ſecond diviſion.

3. *Be it enacted*, That each regiment ſhall be compoſed of two battalions, and each battalion ſhall be formed into companies, to conſiſt of not leſs than forty, nor more than ninety privates each, three ſerjeants, three corporals, one drummer, and one fifer, all of whom ſhall reſide within the company diſtrict.

4. *Be it enacted*, That each regiment of infantry ſhall hold one regimental muſter annually at their reſpective court-houſes or places of holding courts, except the ſecond regiment of Davidſon county, which ſhall hold its regimental muſters at Wayneſborough, or at any other place within the bounds of ſaid regiment that two thirds of the commiſſioned officers may agree on, on the following days, viz.

The firſt, ſixth, tenth, fifteenth, nineteenth, and twenty third regiments the laſt Thurſday in September.

The ſecond, ſeventh, eleventh, ſixteenth, twentieth, & twenty fourth, the firſt Thurſday of October.

The third, eighth, twelfth, ſeventeenth, twenty firſt and twenty fifth the ſecond Thurſday in October.

The fourth, ninth, thirteenth, eighteenth, twenty ſecond, and twenty ſixth, the third Thurſday of October.

And the fifth and fourteenth on the fourth Thurſday in the ſame month.

5. *Be it enacted*, That each battalion ſhall hold one muſter annually. The firſt battalion in each regiment ſhall hold a muſter on the ſecond Thurſday in April: and the ſecond battalion ſhall hold a muſter on the third Thurſday in April; and the officers of each battalion ſhall have the privilege of chuſing their muſter ground.

6. *Be it enacted*, That each regiment ſhall hold a court martial at their reſpective court houſes, on the ſecond Friday of November annually, and the ſucceeding day, if found neceſſary, to conſiſt of at leaſt ſeven members, the oldeſt of whom ſhall be preſident, and be of the grade of field officer; and if there be no field officer preſent, the ſenior officer preſent ſhall preſide; and the court ſhall be ſworn to do their duty by the judge advocate of the regiment; and the ſaid court, when convened, ſhall have power to enquire into the age and abilities of all perſons brought before them, and exempt ſuch as may be judged incapable of duty, and all neglects or omiſſions of duty, as well by officers as by privates; to hear and determine all appeals which may be made by non commiſſioned officers or privates, who may think themſelves aggrieved by any ſentence or decree of their battalion or company court martial, and to order and diſpoſe of all fines and forfeitures ariſing under this act, unleſs otherwiſe diſburſed by law. And the firſt battalion in each regiment ſhall hold a court martial on the laſt Saturday in May annually; and the ſecond battalion in each regiment ſhall hold a court martial on the firſt Saturday in June annually, at the places for holding the battalion muſters, and ſhall conſiſt of at leaſt five members; and the major appointed to the command of each battalion ſhall attend the battalion muſters, and may preſide in the courts martial, or may direct the ſenior officer preſent to preſide; and ſhall be con

ducted by the ſame rules, regulations and reſtrictions as regimental courts martial; reſerving to any perſons who may think themſelves aggrieved by any ſentence of ſuch court, the right of appeal to the next regimental court martial; and in caſe of any ſuch appeal, it ſhall be the duty of the judge advocate to carry up the ſame to the ſucceeding regimental court martial, whoſe duty it ſhall be to determine on all ſuch appeals agreeably to law and the nature of the caſe.

7. *Be it enacted*, That the commiſſioned officers of the aforeſaid regiments of infantry, ſhall meet at the places of holding their regimental muſters, armed with a good rifle or a ſmooth bore, for the purpoſe of being trained and inſtructed in their duty by the brigade inſpector, which meeting ſhall be on the Monday preceding the regimental muſters, and ſhall continue two days; the ſenior officer preſent ſhall call the roll each day and report all delinquents to the next regimental court martial, and every officer failing to attend, or not appearing armed, as aforeſaid, without a reaſonable excuſe, to be judged of by the court martial, ſhall be fined in the ſum of five dollars, to be appropriated as other fines by this act directed.

8. *Be it enacted*, That the commiſſioned officers of the different regiments, ſhall appear in the following uniform, when on parade, (to wit:) with a good cocked hat, a blue cloth coat faced with red, and white ſmall clothes; each field officer with two epaulets; each captain with one epaulet, and optional with ſubaltern officers to wear an epaulet or not; and the ſtaff officers of the regiments, brigades and diviſions, ſhall be equipped and dreſſed in the ſame manner and uniform as other officers, except their ſmall clothes, and facings of their coats, which ſhall be buff.

9. *Be it enacted*, That each diviſion of militia ſhall be commanded by a major general; each brigade, by a brigadier general; each regiment, by a lieutenant colonel commandant and two majors; each battalion by one major, each company by one captain, one lieutenant, and one enſign. The major generals ſhall appoint their aids de camp; the brigadier generals, their brigade majors; the commanding officers of each regiment their adjutants, quartermaſters, ſerjeant majors, drum majors and fife majors; and the captains their drummers and fifers.

10. *Be it enacted*, That the drum majors and fife majors ſhall be allowed one dollar for each day they may attend to inſtruct the drummers and fifers in their regiments, to be paid out of any fines and forfeitures collected under the authority of this act; and the adjutants ſhall be allowed one dollar and fifty cents for each day that they ſhall be engaged in training and diſcipling the regiments and battalions, to be paid out of the fines and forfeitures of the regiment.

11. *Be it enacted*, That the brigadier generals ſhall attend the regimental muſters, in their reſpective brigades, at leaſt once in two years, and oftener if found neceſſary, and ſhall review ſaid regiments, and make ſuch regulations as may appear to them neceſſary, not inconſiſtent with this act; and it ſhall be the duty of the brigadier generals to appoint proper

perſons brigade inſpectors, who ſhall be acquainted with military diſcipline, whoſe duty it ſhall be to attend the ſeveral drill and regimental muſters, at the times appointed by this act, and there proceed to train and diſcipline the commiſſioned officers of their reſpective brigades agreeable to Stuban's military guide. And the brigade inſpectors ſhall be allowed for their ſervices the ſum of two dollars and fifty cents for each and every twenty five miles engaged in travelling to and from the place of attendance, and the like ſum for every day employed in diſcharging the duties enjoined on them by this act, to be drawn from either of the public treaſuries of this ſtate, on a warrant from either of the brigadier generals.

12. *Be it enacted*, That the elections for milltary officers ſhall be as follows: the election for major general, the governor ſhall iſſue his order, giving ſixty days notice; for a brigadier general, the major general ſhall iſſue his order, giving forty days notice; for colonel or major the brigadier ſhall iſſue his order, giving thirty days notice; for captain, lieutenant, enſign, or cornet, the colonel ſhall iſſue his order, giving fifteen days notice. In caſe of death, reſignation or removal from office of either of the above mentioned officers, the next officer in rank ſhall iſſue his order to fill all ſuch vacancies. The election for major general for the firſt diviſion, ſhall be holden by the field officers of the firſt brigade, at Joneſborough: by the field officers of the ſecond brigade at Moſſey Creek Iron Works; by the field offcers of the third brigade at Knoxville, and vote for major general; and the ſenior officer ſhall tranſmit the votes ſo taken to the governor, who in the preſence of the ſecretary of ſtate ſhall proceed to count out the ſame and commiſſion the perſon elected; and if two or more perſons ſhould have an equal number of votes, the governor ſhall decide who ſhall be the major general; and the field officers of the ſecond brigade ſhall meet at Moſſey Creek Iron Works, and proceed to elect one perſon for a brigadier general; and the votes ſo taken by the ſenior officer preſent, ſhall be tranſmitted by him to the major general of the firſt diviſion, whoſe duty it is to count the ſame & ſend to the governor a certificate of the perſon elected, whoſe duty it is to commiſſion him accordingly; and if two or more perſons ſhall have an equal number of votes, the major general ſhall decide who is to be the brigadier general. And the field officers of the fifth brigade ſhall meet at Naſhville and the field officers of the ſixth brigade ſhall meet at Clarkeſville, and ſhall reſpectively vote for one brigadier general; and the votes ſo taken in each brigade reſpectively, ſhall be tranſmitted by the ſenior officer to the major general of the ſecond diviſion, who ſhall proceed to count them out and tranſmit to the governor a certificate of the perſon elected, and the governor ſhall commiſſion him accordingly. And it ſhall be the duty of the major general to decide who ſhall be the brigadier general, in allcaſes where any two or more perſons ſhall have an equal number of votes.

13. *Be it enacted*, That any perſon who ſhall be elected and commiſſioned in the military department of this ſtate,

1803 ſhall not reſign the ſame within three years after the date of their commiſſion unleſs they ſhall offer for a higher command, removed by a court martial for a miſdemeanor in office, or admitted ſo to do by his ſuperior officer.

If a major general, his reſignation ſhall be approved of by the governor.

If a brigadier, by the major general.

If a lieutenant colonel commandant, or major, by the brigadier general.

If a captain or ſubaltern, by a majority of the field officers under the following penalties, viz.

If a major general, in a ſum not exceeding fifty dollars.

If a brigadier general, in a ſum not exceeding fifty dollars.

If a colonel commandant, in a ſum not exceeding fifty dollars.

If a major, in a ſum not exceeding fifty dollars.

If a captain or ſubaltern, in a ſum not exceeding fifty dollars, to be recovered and appropriated as other fines and penalties by this act directed.

14. *Be it enacted*, That in future all commiſſions for militia officers ſhall be iſſued agreeably to the following form by varying the ſame according to the grade of the office, viz.

STATE OF TENNESSEE,

To all who ſhall see these presents, **Greeting**:

KNOW YE, That repoſing ſpecial truſt and confidence in the patriotiſm, valor, conduct and fidelity of
of the county of We do commiſſion him
the regiment of militia of this
ſtate ; and do authoriſe and empower him to execute and fulfil the duties of the ſaid regiment agreeable to law and the rules and directions of military diſcipline : To have and to hold the rank and command of
the ſame regiment during his good behavior, with all the powers, privileges, and emoluments thereto of right appertaining. And the ſaid
is hereby required to obey his ſuperior officer's lawful orders and commands ; and all officers and privates under his command are to be obedient to him as aforeſaid,

In teſtimony whereof we have cauſed the great ſeal of the ſtate to be hereunto affixed. Witneſs eſquire, our governor and commander in chief, at the
day of in the year of our independence, and in the year of our lord one thouſand eight hundred and

By the Governor.

Secretary.

15. *Be it enacted*, That any perſon who hath heretofore received a commiſſion under the authority of this ſtate, may apply to the ſecretary to have a commiſſion agreeably to the foregoing form, under the great ſeal of the ſtate, whoſe duty it ſhall be to make out the ſeme ; and it ſholl bear date on the day and date of the commiſſion heretofore iſſued and be ſign-

ed by the governor for the time being, and perſons ſo applying ſhall pay twenty five cents to the ſecretary for his trouble in iſſuing the commiſſion a ſecond time.

16. *Be it enacted*, That each and every officer appointed and commiſſioned by virtue of this act, ſhall previous to their entering on the execution of their reſpective offices, take the following oath:

I, A. B. do ſolemnly ſwear that I will ſupport the conſtitution of this ſtate and of the United States: And that I will faithfully and juſtly execute the office of   in the   regiment, brigade or diviſion (as the caſe may be) of militia of this ſtate, according to the beſt of my ſkill and judgment. So help me God.

A copy of which oath ſhall be entered on the back of the commiſſion.

17. *Be it enacted*, That each judge advocate previous to his entering on the duties of his appointment, ſhall take an oath to ſupport the conſtitution of the United States and of this ſtate, and alſo the following oath.

I, A. B. do ſolemnly ſwear, that I will well and truly perform the duties of judge advocate of this court, according to law and the beſt of my abilities. So help me God:

The judge advocate thus ſworn, ſhall adminiſter the following oath to the officers, previous to their entering on court martial:

You, and each of you do ſolemnly ſwear or appeal, that you will well and truly enquire into all delinquencies which may appear on the returns to be laid before you, and will aſſeſs the fines thereon, as ſhall ſeem juſt without favor, affection, partiality or prejudice, and that you will not diſcloſe or diſcover the vote or opinion of any particular member of this court, unleſs required to give evidence thereof in a court of juſtice in due courſe of law. So help me God.

No variation to be made in the form of this oath, except as circumſtances ariſing from different caſes may require. And the doors of all courts martial ſhall in all caſes be kept open, unleſs the public good require the contrary.

18. *Be it enacted*, That the commanding officers of regiments, battalions, or companies ſhall lay out and deſignate a ſufficient bonnds at their ſeveral places of muſtering, as will be ſufficient for their regiments, battalions, or companies (as the caſe may be) to muſter and exerciſe on, within which bounds no ſpectator ſhall be at liberty to enter, during the time ſuch regiment, battalion or company is muſtering and exerciſing, without the approbation of the ſaid commanding officer. And if any perſon ſhall behave diſorderly within the bounds aforeſaid, he or they ſhall be confined at the diſcretion of the commanding officer aforeſaid, which confinement ſhall not be longer than the diſmiſſal of the troops ſo aſſembled to exerciſe.

19. *Be it enacted*, That every captain or commanding officer of the company ſhall hold a company muſter once in every two months in each and every year, except the months of January and February, at ſuch places near the centre of their

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company as the commanding officer may deem moſt convenient, and ſhall direct his company ſerjeant to warn his men of the time and place of ſaid muſters; and on ſuch muſter days, the officers of the company or any two them ſhall have power to hold court martial if found neceſſary and the ſenior officer preſent ſhall adminiſter all neceſſary oaths, and receive the fines by ſaid court impoſed, and pay the ſame into the hands of the judge advocate of the regiment, and a record of the proceedings, ſhall be kept and ſtating the name of each perſon on whom a fine has been impoſed, and the ſum ſhall be returned to the judge adovocate, and be entered by him on his journal, and execution may iſſue thereon as in other caſes; but no execution in any caſe ſhall iſſue for fines or forfeitures until the expiration of three months after ſentence of any court martial ſtipulated by this act; and if any perſon on whom a fine ſhall be aſſeſſed, ſhall pay the ſame to the judge advocate, or the commanding officer of the company to which he belongs, within the time limited for ſtay of execution, he ſhall not be liable to pay any coſts. And fines ariſing by delinquencies at any company muſter, ſhall be appropriated to the uſe of ſuch company only, in manner as the court martial thereof may direct, and be drawn from the hands of the judge advocate, on order of the commanding officer of the company.

20. *Be it enacted*, That it may be lawful for a volunteer company of light infantry to be raiſed out of each regiment, by voluntary enliſtment, to be & remain a part of the regiment in which it ſhall be raiſed. The field officers of each regiment is hereby empowered to appoint ſuitable perſons pro tem to raiſe ſuch company, which ſhall conſiſt of not leſs than thirty, nor more than ſixty privates, *Provided*, that no officer ſhall enliſt ſo many men out of any one company as to reduce it under its lawful number; and when any ſuch company ſhall be made up, it ſhall be lawful for the commanding officer of the regiment in which ſuch company ſhall be raiſed, to give a writ of election, and the volunteers ſo raiſed ſhall have power to elect heir officers as in other caſes: and each volunteer ſhall fix himſelf with, & appear when on parade in the following uniform, to wit, a blue coat faced with white, a round hat with one ſide turned up, and white ſmall cloths; and ſhall be armed in the following manner; each captain and ſubaltern with ſide arms each non commiſſioned officer and private with a good rifle, ſhot bag and powder horn, with nine charges of powder and ball ſuitable to the bore of the rifle, and be under the ſame rules, regulations, and reſtrictions as other militia: *Provided*, no private thus enliſted, ſhall be compelled to ſerve in ſaid company longer than five years, but ſhall, ſix months previous to his leaving ſaid company, give a written note to the commanding officer, of his intention to quit the ſame.

21. *Be it enacted*, That it ſhall be the duty of commanding officers of companies to proceed forthwith to divide their companies into diviſions by ballot from one to four for the purpoſe of a regular rotine of duty when called into actual ſer-

vice and return a roll of each diviſion and its number in rotation within thirty days thereafter to the commanding officer of the battalion, who ſhall tranſmit the ſame to the commanding officer of the regiment, who ſhall cauſe the ſame to be recorded by the judge advocate. Every militia man moving out of the bounds of one company into another ſhall apply to the commanding officer of the company to which he did belong, who ſhall give a certificate certifying the claſs wherein he was arranged, and wheter he had ſerved his tour of duty or not; and alſo the time and date of ſuch ſervice, which certificate the ſaid militia man ſhall produce to the captain or commanding officer of the company into whoſe bounds he ſhall ſo have removed within ten days after his ſettlement, and ſuch officer is hereby required to enroll him in the numerical claſs ſpecified therein, and every militia man ſo removing, and failing to produce ſuch certificate, ſhall be arranged and enrolled in the claſs deſtined to perform the next tour of duty; and if any captain or commanding officer of any company ſhall refuſe to grant ſuch certificate, upon application made to him for that purpoſe, he ſhall for ſuch refuſal forfeit and pay a ſum not exceeding ten dollars, to be recovered and applied as other fines by this act directed.

22. *Be it enacted*, That all fines and forfeitures impoſed by virtue of this act, ſhall be collected and paid into the hands of the judge advocate, who ſhall enter into bond with approved ſecurity, in the ſum of one thouſand dollars, payable to the colonel, for the uſe of the regiment, conditioned for the receiving, ſafe keeping, and diſburſing the ſame; and for all neceſſary ſervices thereon ſhall be allowed the ſum of ſix dollars for each and every hundred dollars ſo received and diſburſed, and ſo in proportion for a greater or leſſer ſum, firſt retaining his fees of office.—Execution by the judge advocate ſhall be to the following effect:

STATE OF TENNESSEE—To the Sheriff of

YOU are hereby commanded, that of the goods and chattels of you cauſe to be made the ſum of dollars, which ſum the ſaid was fined in at a regimental, battalion or company court martial (as the caſe may be) on the day of in the year of which ſum you are to render to the judge advocate within thirty days after the receipt thereof. Given under my hand the day and date above written.

[Signed]

A. B. judge advocate

of regiment.

And it ſhall be the duty of the ſheriff, upon the receipt of ſuch execution, to proceed without delay to the collection of the ſums therein ſpecified, and ſaid ſheriff ſhall receive fifty cents for every execution by him collected; and alſo the judge advocate ſhall receive twelve and one half cents for every execution by him iſſued, which fees ſhall be inſerted in the execution and collected from the delinquents, and to return all ſuch executions to the next regimental court martial next enſuing the day of iſſuing the ſame, and to render the monies thereon collected as directed by ſuch executions; and the ſaid judge advocate is hereby empowered and required as before mentioned, and it ſhall be the duty of the judge advocate to enter on the minutes of the court martial the return of the ſerjeant on each and every execution, and the court martial of each and every regiment ſhall order the judge advocate (whoſe duty it ſhall be) to advertiſe annually, at the court martial, the amount of all money ariſing by fines agreeably to this act, which he may have in his hands or in what manner the ſame is diſburſed.

23. *Be it enacted*, That it ſhall be the duty of the colonel to appropriate the money ariſing by fines in the hands of the judge advocate, by order of the court martial in the firſt place to buying drums, fifes and colours for the uſe of the regiment, and ſecondly to buying arms and other neceſſary implements of war, and other contingencies.

24. *Be it enacted*, That the commanding officers of each company ſhall make out an accurate ſtatement, of the ſtrength and condition of his company, and make return thereof to the major of the battalion to which he belongs, on or before the battalion muſter annually, whoſe duty it ſhall be to return the ſame to the commanding officer of his regiment on or before the firſt day of May annually, who ſhall file the ſame with the adjutant of the regiment, whoſe, duty it ſhall be under the direction of the commanding officer of his regiment, to make out an accurate ſtatement of the ſtrength and condition of his regiment, and return the ſame to the brigade major of the brigade to which he belongs on or before the firſt day of June annually; and the brigade major, under the direction of the brigadier general, ſhall in like manner make a return of the brigade to which he belongs, to the adjutant general, on or before the firſt day of Auguſt annually; and it ſhall be the duty of the adjutant general to furniſh all blank forms of the different returns and explanations of the principles on which they ſhould be made as ſhall be approved of by the major general, and alſo to receive the returns of the militia throughout the ſtate, from all which he ſhall make the proper abſtracts, and lay the ſame before the commander in chief of this ſtate, on or before the third Monday of September annually; and the commander in chief, when required, ſhall lay the ſame before the general aſſembly.

25. *Be it enacted*, That each militia officer and private ſhall be armed in the following manner, (to wit:) each commiſſioned officer with ſide arms, eſpantoons, each private and non commiſſioned officer ſhall be provided with a muſquet, cartrigde box with nine charges of powder & ball made into cartridges, or a rifle, powder horn and ſhot pouch with an equal quantity of ammunition ſuitable thereto in good condition, one ſpare flint, one picker and worm; and every officer and private ſhall appear at their reſpective muſter fields by eleven o'clock in the forenoon, on the day appointed for holding regimental, battalion or private muſters. And for the better underſtanding

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of the duties of the officers and ſoldiers at the aforeſaid muſters, it ſhall be the duty of the adjutant when the different companies are aſſembled, to lead off the ſame by files, into one regimental or battalion line, (as the caſe may be) and the commanding officer of each company ſhall cauſe his roll to be called, examine every perſon belonging thereto, and note down all delinquencies accruing therein, as well thoſe not attending as thoſe attending and not armed as by this act directed, and make report thereof to the regimental, battalion or company court martial (as the caſe may be) the commanding officer ſhall order the adjutant to proceed to train and diſcipline the troops, agreeable to Stuban's military guide.

26. *Be it enacted,* That if any officer ſhall fail to appear at ſuch muſter as aforeſaid, neglect to appear properly armed and equipt, as by law directed, ſuch officer on conviction before a court martial, ſhall forfeit and pay, if a field officer, a ſum not exceeding ten nor leſs than four dollars; if a captain, lieutenant, enſign or adjutant, a ſum not exceeding five nor leſs than two dollars, unleſs he or they ſhall render to the court ſuch reaſons as they ſhall judge ſufficient; and every non commiſſioned officer and private, who ſhall fail to attend at ſuch muſters, or appear not armed, or provided as directed by this act, ſhall for every ſuch neglect forfeit and pay, if at a regimental muſter, a ſum not exceeding two nor leſs than one dollar; if at a battalion muſter, a ſum not exceeding one dollar and fifty cents, nor leſs than ſeventy five cents; if at a private muſter, a ſum not exceeding one dollar nor leſs than fifty cents; *Provided always,* That every delinquent ſhall be allowed until the next regimental, battalion or company court martial; (as the caſe may be) whoſe duty it ſhall be to attend ſuch court martial to render his or their excuſe for ſuch delinquency; and if upon trial, their reaſons ſhould be deemed inſufficient, the court ſhall then proceed to aſſeſs the fines as aforeſaid, *Provided,* That in all caſes, when the fine to be aſſeſſed ſhall ariſe from any perſon appearing without arms, as by this act directed, then and in that caſe the court is hereby veſted with a diſcretionary power.

27. *Be it enacted,* That when either the major general, brigadier general, brigade major ſhall be charged with mal adminiſtration or neglect of duty in office, if the major general, it ſhall be lawful for any militia officer, not under the grade of field officer, to exhibit to the governor for the time being a fair ſtatement of the charge or charges, and the facts intended to eſtabliſh the ſame, who is hereby authoriſed to order a general court martial, to conſiſt of at leaſt nine members, none to be under the grade of a field officer, who, when convened ſhall take and ſubſcribe the oath hereafter directed for regimental court martials. The ſaid court thus ſworn, ſhall have power to enquire into the nature of the offence, and if it ſhould conſtitute a miſdemeanor in office, he ſhall be removed from the ſame; if neglect of duty, he ſhall forfeit and pay a ſum not exceeding fifty dollars, to be recovered and applied as in ſimilar caſes; if a brigadier general, or brigade major, ſhall be guilty of either of the aforeſaid offences, the charge ſhall be exhibited

to the major general, whoſe duty it ſhall be to iſſue his orders to the ſenior colonel commandant in the brigade in which the perſon charged reſides, by virtue of which order ſaid colonel is directed to hold a court martial, and proceed in the ſame manner as preſcribed for the trial of major general: *Provided*, That in all caſes of charges exhibited againſt officers, the officer ordering a court martial, ſhall, as ſoon as practicable, furniſh the perſon charged with a copy of the charges exhibited againſt him; and the preſident of the court martial ſhall give him at leaſt fifteen days notice of the time and place appointed for trial and cauſe ſuch witneſs to be ſummoned by the adjutant of the regiment in which they reſide, as may be required by either party; and every perſon ſo ſummoned and failing to attend or refuſing to be ſworn, ſhall be liable to be tried by a court martial; and if he be an officer, he may be caſhiered or fined at the diſcretion of the court martial not exceeding fifty dollars; if a non commiſſioned officer or private, he may be fined not exceeding twenty dollars, and moreover be confined under guard or put in jail until he will give evidence.

28 *Be it enacted*, That each regimental court martial ſhall by ballot elect a ſuitable perſon as judge advocate, whoſe appointment ſhall continue during good behaviour; his duty ſhall be to provide a book, in which he ſhall ſtate from time to time the proceedings to ſaid court, and make all other neceſſary entries for the regiment; and for his ſervices ſhall be exempted from military duty, and be allowed the ſum of one dollar per day, for attending regimental and battalion court martials, to be paid out of the fines ariſing by virtue of this act: *Provided also*, that in caſe of death, reſignation, or removal out of the county or office, the journals and proceedings ſhall be kept by the colonel or commanding officer, until a judge advocate be appointed in the room and ſtead of him ſo dead, or refuſing to act, or removed as aforeſaid.

29. *Be it enacted*, That if any commiſſioned officer belonging to any regiment, ſhall be charged with unmilitary or ungentlemanly conduct, ſuch court ſhall have power, on conviction thereof to caſhier the perſon ſo charged and convicted, from office; and if any officer ſhall be guilty of diſobedience to his ſuperior officer's lawful commands, when on duty, he ſhall be arreſted and tried as herein directed; and if the ſentence ſhall be to impoſe a fine, the ſame ſhall not exceed twenty dollars; and if a member of court martial ſhall be guilty of any conduct unbecoming the character of an officer, he ſhall for the firſt offence be reprimanded by the preſident, and for the ſecond and all others be fined in a ſum not exceeding ten dollars; and if any byſtander ſhall interrupt or inſult ſaid court while ſitting, ſuch perſon, on conviction, ſhall forfeit and pay a ſum not exceeding twenty dollars, to be recovered as by this act directed.

30. *Be it enacted*, That if any non commiſſioned officer or private, ſhall, during the time of muſter, reſiſt his commanding officer, or refuſe his lawful commands, if a non commiſſioned officer, he ſhall be fined in a ſum not exceeding ten dol-

lars, reduced to the ranks and kept under guard during ſuch muſter; if a private, he ſhall be fined, not exceeding eight dollars and kept under guard as aforeſaid; which fine ſhall be appropriated as heretofore directed.

31. *Be it enacted*, That it ſhall be the duty of the colonel or commanding officer of each regiment, to number by grade the commiſſioned officers, plainly ſetting forth the number of each company and the officers deſtined to command the ſame which ſtatement he ſhall cauſe to be duly regiſtered by the judge advocate in his journal, the object of which is, to direct the colonel or commanding officer how and in what manner he ſhall call men into actual ſervice and to eſtabliſh the rank of the different officers in his regiment.

32. *Be it enacted*, That no officer or private, ordered or directed by this act to appear as aforeſaid, ſhall be liable to be taken or arreſted by any officer in any civil action or proceſs whatever, on the day ſuch perſon or perſons is or are directed to appear, or in any reaſonable time going to, continuing at or returning from the ſame; but every ſuch arreſt is hereby declared to be void. And every perſon required by this act to attend muſters, going to or returning from the ſame, ſhall be ſuffered to paſs over any bridge, together with his horſe, and ſhall be put over any public ferry without delay, free from any charge whatever; and if any ferryman demand pay for delay or refuſe to put ſuch perſon or perſons over, or maſter of a toll bridge impede the paſſing of any perſon, he ſhall forfeit and pay for every ſuch offence the ſum of two dollars to be recovered by a warrant from a juſtice of the peace, one half to the informer and the other half to the uſe of the county where the offence was committed; and no non commiſſioned officer or private ſhall be deprived of his arms and accoutrements required by this act, by execution or other proceſs of law civil or military whatever.

33. *Be it enacted*, That if any commiſſioned officer ſhall remove out of the bounds of his proper diviſion, brigade, regiment or company, or offer himſelf a candidate for any other military appointment, or ſhall be abſent therefrom, otherwiſe than on military duty for more than twelve months, his office ſhall thereby become vacated; and if any commiſſioned officer ſhall think himſelf injured by his commanding officer of the regiment, and ſhall upon due application made to him be refuſed redreſs, he may complain to the brigadier general, who ſhall order a brigadier court martial to be held, under the ſame rules and reſtrictions as heretofore mentioned; if any inferior officer or private ſhall think himſelf injured by his captain, or other ſuperior in the regiment to which he belongs, he may complain to the commanding officer, who ſhall ſummon a regimental court martial, and ſuch court ſhall determine the complaint agreeable to the nature of the caſe. *Provided always*, that the complainant ſhall exhibit his charge in writing ſupported by oath or affirmation.

34. *Be it enacted*, That all elections in the militia department, which may hereafter be conteſted, ſhall be determined in the following manner, (to wit): If the election of a major

general ſhould be conteſted, the party conteſting ſuch election ſhall furniſh the governor with a fair ſtatement of his reaſons in writing, upon the receipt of which he ſhall order a general court martial to be held at the ſeat of government; at which court, each militia officer, not under the grade of a field officer, ſhall be entitled to a ſeat; and if the election of a brigadier general ſhould at any time be conteſted, the complainant ſhall make application in the manner before mentioned to the major general, who is hereby directed to order a brigade court martial as in other caſes; and when the election of a lieutenant colonel commandant or major ſhall be conteſted, application ſhall be made to the next higheſt officer in command, who ſhall order a regimental court martial accordingly; if under the rank of field officers all complaints ſhall be directed to the commanding officer of the regiment where the conteſt exiſts; and in order to explain and fix a principle to govern the ſeveral courts martial in their duties reſpecting conteſted elections, it is hereby declared that the perſon conteſting in all caſes, ſhall be bound to give ſatisfactory proof to the court, that the perſon whoſe election is conteſted did receive a number of illegal votes, which if deducted, would give a majority to the perſon conteſting, and if the perſon conteſting ſhould fail at any time to eſtabliſh his charge, or if the charge ſhall be ſufficiently ſupported, in either caſe the court ſhall report in favor of the perſon having the greateſt number of legal votes, as being duly elected.

35. *Be it enacted,* That the preſident of each court martial ſhall certify, under his hand, the name or names of the perſon or perſons thus duly elected, which certificate ſhall be directed to the governor, provided the officer ſhall be of the grade of general or field officer; if commiſſioned officers of companies, the certificate ſhall be ſigned as aforeſaid and directed to the lieutenant colonel commandant, and by him to the governor, who ſhall iſſue commiſſions in either of the above mentioned caſes; and in order to provide more amply for deciding conteſted elections, it is hereby declared, that where the cauſe ſhould at any time ariſe from any illegal proceedings of any perſon ordering, inſpecting, or judging any election, on proof being made to the court martial, ſuch election ſhall be declared void; and the preſident by and with the authority of ſaid court, ſhall direct the proper officer to iſſue a writ or writs of election to fill ſuch vacancy, having reſpect to the directions contained in the act, entitled, "an act preſcribing the mode of electing militia officers of this ſtate," paſſed at Knoxville, one thouſand ſeven hundred and ninety ſix: *Provided,* that the parties conteſting any election of an officer or officers, ſhall not be permitted to vote in any court martial authoriſed to decide in ſuch conteſted election or elections.

36. *Be it enacted,* That in caſe of actual invaſion or inſurrection, or an invaſion threatened or premeditated, againſt this ſtate or any part thereof, then it ſhall be lawful for the governor for the time being or any officer by him directed, to order into actual ſervice all or ſuch parts of the militia as the exigency may require, and to diſcharge ſaid troops as ſoon

as he may judge it conſiſtent with the intereſt of the ſtate ; and if a ſudden inſurrection ſhould be raiſed, or invaſion made upon any county within this ſtate; the commanding officer of the militia of ſuch county is hereby authoriſed and directed to order out ſuch part of the militia as he may think neceſſary for ſuppreſſing or repreſſing ſuch invaſion: *Provided always*, that it ſhall be the duty of ſuch officer to tranſmit to the governor as early as practicable, the ſtatement of his proceedings, ſetting forth his reaſons for exerciſing ſuch authority ; and in order to explain an invaſion premeditated, it muſt be underſtood as a ſpecial requiſite, that the oath or oaths of one or more reſpectable perſons ſhall be required ; and in all caſes where any part of the militia is called into ſervice by virtue of ſuch authoriyt, the commanding officer ſhall in tranſmitting his reaſons to the governor, encloſe a copy of each depoſition ſo taken ; and the ſaid militia ſhall be diſcharged within thirty days from and after their rendezvous, except they ſhould be continued in ſervice for a longer time by the executive of this ſtate.

37. *Be i. enacted*, That every non commiſſioned officer, muſician, or private, who ſhall refuſe or neglect to appear either by himſelf or ſubſtitute, at ſuch time and place as ſhall be appointed by his commanding officer, or appear and not armed as by this act directed, ſuch perſon on conviction before a court martial ſhall forfeit and pay a ſum not exceeding *fifty* dollars ; and if any commiſſioned officer ſhall be guilty of a like offence, ſuch officer, on conviction before a regimental, brigade or general court martial (as the caſe may be) ſhall be ſubject to a fine not exceeding *one hundred* dollars, and reduced to the ranks : *Provided always*, That each commiſſioned, non commiſſioned officer, or private, ſhall be notified of ſuch requiſition which muſt depend upon circumſtances, for if the perſon be notified it ſhall be available in law.

38. *Be it enacted*, That if any perſon ſhall be called upon to perform a tour of duty ſuch perſon ſhall be acquitted from the ſame, provided he furniſh his commanding officer with an able bodied ſubſtitute in his room and ſtead ; no ſubſtitute ſhall be received unleſs armed as by this act directed ; but if any ſubſtitute in his own turn ſhall be called into actual ſervice, previous to the expiration of the term for which he ſhall have been enrolled, then the perſon procuring ſuch ſubſtitute ſhall march in his room, or be liable to the ſame penalties as if called upon in his own name ; any perſon called upon to perform a tour of duty as aforeſaid, and ſerving by himſelf or ſubſtitute, or otherwiſe paying ſuch fine as a court martial ſhall adjudge adequate to the offence, ſuch perſon ſhall not be bound to perform any tour of duty until regularly called upon in rotation.

39. *Be it enacted*, That the ſaid militia ſhall not be compelled to ſerve a longer time in any one tour than three months after their arrival at the place of rendezvous.

40. *Be it enacted*, That all fines and forfeitures ariſing by virtue of this act ſhall be aſſeſſed, collected, and paid as heretofore directed, and applied by the lieutenant colonel command-

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ant, to the expreſs purpoſe of hiring ſubſtitutes when the ſame may be found neceſſary. And if his fund for that purpoſe be inadequate he ſhall order into ſervice a ſufficient number to complete the quota of thoſe deſtined next for duty, who ſhall be bound to perform accordingly, under the ſame penalties as heretofore declared and ſet forth in this act; and where any vacancy may happen in the ranks of commiſſioned officers, the commanding officers of each regiment ſhall proceed to fill ſuch vacancy by calling into ſervice any officer of the ſame grade next in order of command.

41. *Be it enacted,* That in caſe any perſon or perſons are fined as by this act directed, and ſhall move out of the bounds of the county where ſuch fine is aſſeſſed, previous to his or their ſatisfying the ſame, it ſhall be lawful for the court martial to iſſue an execution ſigned by the judge advocate of ſaid court as directed by this act, authoriſing the ſheriff of the county into which he or they may have removed, to collect and account with the judge advocate of the county from which the ſaid execution iſſued.

42. *Be it enacted,* That all commiſſioned officers ſhall take rank according to the office they hold and the date of their commiſſions; and where two or more officers of like rank ſhall have been commiſſioned on the ſame day, their rank in the brigade or regiment to which they belong, ſhall be decided by lot drawn before the commanding officer of ſuch brigade or regiment, who ſhall have the ſame recorded by the brigade major or judge advocate.

43. *Be it enacted,* That if any commiſſioned officer ſhall be charged with ungentlemanly conduct, either in or out of ſervice, unbecoming the character of an officer, he ſhall be arreſted and tried by a general or regimental court martial agreeable to the rules contained in this act; if found guilty, ſhall be caſhiered and enrolled as a private, in the company within the diſtrict of his reſidence.

44. *Be it enacted,* That if any perſon ſhall vote at any election preſcribed in this act, not duly qualified, ſuch perſon ſhall, on conviction forfeit and pay five dollars, to be recovered as in other caſes, to the uſe of him or them ſuing for the ſame.

45. *Be it enacted,* That no perſon belonging to any religious denomination, the tenets of which are oppoſed to the bearing of arms, ſhall be fined for not attending regimental, battalion or private muſters; but ſhall nevertheleſs be claſſed, drafted and ordered on duty as other privates in all other caſes; and in caſe of non performance be ſubject to the ſame penalties.

46. *Be it enacted,* That there ſhall be one company of cavalry in each county, together with thoſe volunteer companies which have heretofore been eſtabliſhed by law in this ſtate, to be raiſed by voluntary enliſtment, and ſhall conſiſt of one captain, one lieutenant, one cornet, three ſerjeants, three corporals, and one trumpeter, and not leſs than thirty nor more than forty privates; and the cavalry of each brigade ſhall conſtitute one regiment, and be commanded by a lieutenant colo-

nel commandant and two majors, who ſhall be elected by the commiſſioned officers of their regiment; and the regimental courts martial of ſaid cavalry ſhall be on the day next ſucceeding their regimental muſters, and ſhall be conducted under the ſame rules, regulations and reſtrictions as infantry courts martial of like grade; and each company of cavalry ſhall, on three ſeveral days annually, hold three company muſters at the court houſe of their county, or ſuch other place as the officers may agree on, which days ſhall be appointed by the commanding officer of the company, and ſhall hold courts martial for the trial of delinquents, as is directed in this act for holding company courts martial; and it ſhall further be their duty to attend the infantry regimental muſters of their county; and when at ſaid muſters ſhall be under the direction and command of the commending officer of the regiment.

47. *Be it enacted*, That every officer and private belonging to each troop of horſe, ſhall appear, when on parade with a ſtrong ſervicable horſe, at leaſt fourteen hands and an half high, with a good ſaddle, bridle, holſters and one piſtol at leaſt and horſeman's ſword, cap, a pair of ſhoe boots and ſpurs, with cartouch box and cartridges in good order, and dreſſed in the uniform of the regiment to which he belongs.

48. *Be it enacted*, That the captain or commanding officer of the cavalry ſhall make out a fair ſtatement of the ſtrength and condition of their companies, and return the ſame to the commanding officer of the regiment, on or before the firſt day of May annually, who ſhall make out a fair ſtatement of the ſtrength and condition of his regiment, and return the ſame to the brigadier general of his brigade, on or before the firſt day of June annually.

49. *Be it enacted*, That it ſhall be the duty of the captain or commanding officer of companies, both of cavalry and infantry, to cauſe this law, or ſuch parts thereof as he ſhall think neceſſary, to be read at each private muſter.

50. *Be it enacted*, That each officer required to make returns by virtue of the twenty fourth ſection of this act, and failing to make ſuch return, ſhall, if an adjutant general, be fined in a ſum not exceeding fifty dollars; if a brigade major, in a ſum not exceeding forty five dollars; if an adjutant, in a ſum not exceeding thirty dollars; if a colonel, in a ſum not exceeding thirty dollars; if a major, in a ſum not exceeding twenty five dollars; if a captain, or commanding officer of a company, in a ſum not exceeding twenty dollars; to be aſſeſſed, collected and diſburſed in manner as by this act directed in other caſes.

51. *Be it enacted*, That this act ſhall be in force and uſe from and after the firſt day of December next. And that all laws and parts of laws, coming within the purview and meaning of this act are hereby declared vaid.

CHAP. II.

An act ſupplementary to an act, entitled, " and act to amend an act eſtabliſhing courts of law, and for regulating proceedings therein," ſo far as reſpects the county courts.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That it ſhall be the duty of the clerks of the ſeveral county courts in this ſtate, before ſwearing of any jury to try any iſſue or writ of enquiry depending in ſaid courts, to ſet down the names of the juſtices preſent ; and it ſhall be the duty of ſaid juſtices to continue on the bench until ſaid cauſe is determined, or otherwiſe diſpoſed of.

5. *Be it enacted*, That in all civil caſes before the jury is ſworn to try any iſſue, the clerk ſhall read over the names of the jurors on the panel, in the preſence and hearing of the parties and their counſel, and either plaintiff or defendant or their counſel for them may challenge peremptorily two jurors without ſhewing any cauſe therefor, which challenge ſhall be allowed by the court ; and the jurors ſhall then be made up as in other caſes. And in caſe of indictment for petit lacerny, the defendant or his attorney, and alſo counſel for the ſtate may challenge peremptorily four jurors as aforeſaid, and then the balance of the jury to be made up as is uſual in like caſes.

7. *Be it enacted*, That any juror ſummoned to attend any of the courts of pleas and quarter ſeſſions in this ſtate who ſhall fail to appear, ſhall forfeit and pay five dollars for every ſuch failure, to be recovered and applied as heretofore : *Provied nevertheleſs*, that it ſhall not be lawful for any of the courts as aforeſaid, to iſſue any ſcire facias until the next term after the term to which ſuch juror ſhall be ſummoned, and fail to attend ; and it ſhall and may be lawful for any juror who has failed to attend to make his excuſe known to the next court, on oath or affirmation, and in caſe where a conditional forfeiture has been entered againſt ſuch jurors, it ſhall be ſet aſide without any coſt to ſuch juror, on ſufficient cauſe being ſhewn.

8. *Be it enacted*, That the ſeveral jurors attending as by this act required, ſhall, at the commencement of the court be ſworn in chief, to try all cauſes that ſhall be ſubmitted to them during the term of ſaid court ; and a taliſman ſhall be ſworn ſeperately to try each cauſe, or for the day, as the court may determine.

9. *Be it enacted*, That the conſtable attending the ſeveral courts ſhall be ſworn in chief.

CHAP. II.

An act to aſcertain what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for and paying public taxes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That all lands to which the Indian claim is extinguiſhed by treaty, held by deed, grant, entry, right of dower, courteſy or occupancy, all free males and male ſervants between the age of twenty one and fifty years, and all ſlaves male and female, between the age of twelve and fifty years, all town lots, ſtud horſes kept for the ſeaſons of mares, all billiard tables, retail ſtores, pedlers, and hawkers within this ſtate ſhall be ſubject to the payment of public taxes; and the public tax on ſuch property and perſons ſhall be proportioned in the manner directed by this act.

2. *Be it enacted,* That the public tax for the years one thouſand eight hundred and four, and in each ſucceeding year, ſhall be—

For each hundred acres of land twelve and one half cents:

On each town lot twenty five cents:

On each free poll and male ſervant twelve and one half cents:

On each ſlave twenty-five cents.

On each ſtud horſe kept for the ſeaſon of mares, the ſum equal to the ſeaſon of one mare:

On each billiard table one thouſand dollars:

On each retail ſtore twenty five dollars:

On each pedler or hawker twenty five dollars: *Provided nevertheleſs,* that no perſon ſhall be required to give in any billiard table he may own on the firſt day of January next, as taxable property; but ſhould any perſon, after the firſt day of May next, preſume to keep up any billiard table, he, ſhe, or they ſhall be liable to pay the aforeſaid ſum of one thouſand dollars, if the ſame ſhould be kept up but one day; and it ſhall be the expreſs duty of the ſheriff in each county, to collect the aforeſaid tax, if at any time thereafter they ſhall know or diſcover ſuch table to be kept up by any perſon in their county, by diſtreſs or otherwiſe.

3. *Be it enacted,* That the aforeſaid tax ſhall be and remain a lien upon all lands and other real eſtate, and all ſlaves and other taxable property of the individuals who may be returned for the ſame, when it ſhall become due and payable according to this act; and the ſaid lien ſhall extend to each and every part of all tracts or lots of land, or ſpecies or taxable property whatever, notwithſtanding the ſame may have been divided or alienated, and notwithſtanding the ſame may have been liſted and advertiſed in the name of others than thoſe who actually own the ſame, at the time of the return or ſale, or tho' the owner thereof be not known; provided ſuch land be ſpecially and particularly deſcribed in ſuch return and advertiſment; and to that end as far as practicable, it ſhall be the duty of the returning officer, where any doubts may

exiſt as to the actual ownerſhip of the land, to refer to the number of the original grant or entry, in order that all perſons concerned may be appriſed of the ſame. And the tax upon all ſtud horſes ſhall be a lien upon the plantation or tract of land where he is kept, any law to the contrary notwithſtanding; and in every caſe where a merchant ſhall keep a ſtore on the lands of another, the tax ſhall be a lien on the lot or land on which it is ſo kept.

4. *Be it enacted*, That each merchant, pedler, and hawker, ſhall after the firſt day of January next, before they proceed to ſell any article of merchandize, make application to the clerk of the county in which ſuch merchant, pedler, or hawker is about to diſpoſe of ſuch goods as aforeſaid, and upon application, the clerk is hereby directed to iſſue a licence to ſaid merchant, pedler, or hawker (as the caſe may be) who may proceed to ſell and diſpoſe, of his merchandize, under the authority of ſuch licence, for the term of one year and no longer: *Provided*, That before ſuch licence ſhall iſſue as aforeſaid, the applicant ſhall pay to the ſaid clerk the tax impoſed by this act, with the additional ſum of fifty cents as fees of office; and each clerk receiving any money in behalf of this ſtate, by virtue of this act, ſhall be bound to account for and pay the ſame in manner and form as directed for ſettling and accounting for the tax on law proceedings: *And provided also*, that each pedler and hawker ſhall be compelled to take out licence in each county he may wiſh to retail goods.

5. *Be it enacted*, That if any merchant, pedler, or hawker ſhall ſell or retail merchandize, contrary to the true intent and meaning of this act, he ſhall forfeit and pay one hundred dollars, to be recovered by action of debt, one half to the perſon who will ſue for the ſame, the other half for the uſe of the ſtate.

6. *Be it enacted*, That the ſeveral clerks and maſters of the courts of equity, the clerks of the ſuperior courts of law, clerks of the ſeveral county courts, and regiſters of each and every county within this ſtate, ſhall each make out a fair liſt, clearly diſtinguiſhing the amount of money collected by them for taxes, which by law they are bound to pay over to the treaſurer of their diſtrict, which liſt ſo made out, they ſhall tranſmit to each and every ſtated general aſſembly within ſix days after the meeting thereof, under the penalty of one thouſand dollars.

12. *Be it enacted*, That all taxes by this act impoſed, or hereafter to be impoſed, ſhall be collected, paid and accounted for in manner and form following—The clerk of each county court in this ſtate, ſhall, in thirty days after the court to which the liſts of taxable property is returned in every year, furniſh the ſheriff of the county (whoſe duty it ſhall be to collect the public taxes) with a liſt of taxable property and polls within the county, and the ſheriff ſhall appoint the day and place in each captain's diſtrict when he will attend for the purpoſe of receiving taxes, which day ſhall be as ſoon as may be after he ſhall have received the liſt of taxable property: *Provided always*, That the ſaid ſheriff ſhall give fifteen days previous notice,

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by advertiſing it at ſix of the moſt public places in ſaid diſtrict; and if any perſon or perſons notified, ſhall fail to attend, or otherwiſe pay their taxes, on or before the day appointed, it ſhall be the duty of the ſheriff to levy the ſame by diſtreſs and ſale of the goods and chattels of every perſon ſo neglecting: *Provided*, No diſtreſs be made within twenty days after the day ſo notified for receiving taxes; and for every ſale and diſtreſs ſo made it ſhall be lawful for ſuch ſheriff, as fees of office, to levy therewith the ſum of fifty cents: *Provided alſo*, That the ſaid ſheriff ſhall give at leaſt ten days previous notice of ſuch ſale, by advertiſement as in other caſes: *Provided nevertheleſs*, That if after the day appointed by the ſheriff for receiving taxes, and before any diſtreſs ſhall be made, it ſhall be lawful for any perſon to pay the amount of his taxes to the ſheriff, who ſhall not demand or receive the fifty cents contemplated by this act.

13. *Be it enacted*, That in caſe their ſhall not be any goods and chattels on which the ſheriff can diſtreſs for public taxes, he ſhall report the ſame to the court of his county; and the court ſhall, forthwith, direct the clerk to make out a certificate of the lands and tenements liable for the payment of ſaid taxes, together with the amount of charges and taxes due thereon, and ſhall cauſe the ſame to be publiſhed at leaſt once in the gazette in the diſtrict where ſuch land lies, and twice in the gazette of the public printer, ſetting forth the ſame will be ſold for taxes. And the printer ſhall be allowed the ſum of thirty ſeven and an half cents for each publication, to be levied of the ſaid land as the tax and other charges; and if no perſon ſhall pay the public taxes thereof, agreeably to this act, within ten days after the laſt publication as aforeſaid, the court ſhall enter up judgment for the amount of taxes due, and all accruing coſts and chages; which execution, at the direction of the court, ſhall iſſue as in other caſes; and the ſheriff ſhall by virtue thereof expoſe to ſale at the court houſe of his county, the ſaid lands and tenements, or ſo much thereof as ſhall be ſufficient to ſatiſfy the ſaid judgment and all coſts and charges accruing thereon; and the ſaid ſheriff is hereby authoriſed and directed to make out and execute a deed or deeds of conveyance for the land ſo ſold, having regard to the beginning corner lines of ſuch land about to be ſold, that is, to begin at the aforeſaid corner running at leaſt one line of the ſaid tract, either in a ſquare or oblong to make the quantity; and ſhould that part of the beginning of the original tract be ſold, then to take the ſame in any other part, ſo as to obſerve the rule above preſcribed, unto the perſon or perſons being the higheſt bidder. And the ſeveral clerks and ſheriffs ſhall reſpectively receive for their ſervices herein the ſeveral fees as allowed by law for ſimilar ſevices in other caſes, excluſive of the ſix per cent, which the ſaid ſheriff is entitled to have for collecting and paying ſuch taxes; & where any ſheriff has or hereafter may ſell lands for taxes and before making a title or titles thereto, ſhall die, remove or abſcond from his or their county, then and in ſuch caſe his or their ſucceſſor in office ſhall and they are hereby authoriſed, ca-

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powered and required to make a deed or deeds to any and all lands ſo ſold as aforeſaid, which deed or deeds ſo made ſhall be as good and valid in law and equity, as if the ſame had been made by the ſheriff ſelling lands as aforeſaid. *

14. *Be it enacted*, That the ſheriff of each and every county before entering on the collection of public taxes, ſhall give bond with two or more ſecurities, which the court ſhall approve of, for double the ſum by him to be collected, payable to the governor for the time being and his ſucceſſors in office, for the uſe of the ſtate, conditioned for the collection and payment to the treaſurer of the diſtrict where the ſaid ſheriff reſides, of all taxes by him collected, or which ought to have been collected on or before the firſt day of December in each and every year in which he ſhall collect the tax, and ſhall alſo in open court take and ſubſcribe the following oath :

I A. B. do ſolemnly ſwear or affirm, [as the caſe may be] that I will faithfully collect all taxes for my county, or cauſe the ſame to be done according to law, and the beſt of my ſkill and ability.—So help me God.

15. *Be it enacted*, That the ſheriffs appointed to collect public taxes by virtue of this act, ſhall each and every of them pay the public taxes collected in his county, into the hands of the treaſurers authoriſed to receive the ſame, on or before the laſt day of December in each and every year ; and ſhall receive as commiſſion for collecting and paying the ſame, the ſum of ſix dollars for each hundred dollars, and ſo in proportion for a greater or leſs ſum, which commiſſions ſhall be deducted out of the money by them collected.

16. *Be it enacted*, That if any ſheriff or collector ſhall preſume, under colour or pretence of this act or of any act, directing the collection, to collect more money in the name of taxes, than is directed by law, ſuch offending ſheriff or collector, on due proof thereof, ſhall be guilty of a miſdemeanor in office, and ſhall be fined not exceeding one hundred dollars.

17. *Be it enacted*, That the clerk of each county court in this ſtate ſhall enter of record the bond given by ſaid ſheriff for the collection of public taxes, and ſhall without delay tranſmit the ſame together with a copy of the tax liſt of his county to the treaſurer of the diſtrict wherein ſaid clerk reſides, and alſo a like copy to the next ſtated meeting of the general aſſembly, within ſix days after their meeting ; and in caſe any of the aforementioned clerks ſhall fail to comply with their duty as required by this act, for every ſuch offence he or they ſhall forfeit and pay a ſum not exceeding one hundred dollars.

18. *Be it enacted*, That if the ſheriff of any county in this ſtate ſhall die ſhortly before or during the term appointed for

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* This is the mode of preceeding for taxes due on perſonal eſtate where perſonal eſtate is not to be found to diſtrain on. Where the tax is due on lands that is provided for by 1807 Ch. 21. and the mode of proceeding is different.

the collection of public taxes, ſo that the court could not have appointed a ſucceſſor in office before the time for collecting the taxes, in ſuch caſe it may and ſhall be lawful for their ſecurities to receive the ſame; in which buſineſs they are hereby declared to have all the powers, authorities, privileges and emoluments in and for the receipt and collection of all taxes, which the ſheriff deceaſed poſſeſſed and enjoyed, and ſhall be liable for deficiencies.

19. *Be it enacted*, That if the ſheriff or ſheriffs of any county in this ſtate ſhall neglect or refuſe to ſettle his or their accounts on or within the time limited by this act, as in manner hereby directed, it ſhall and may be lawful for the treaſurer of the diſtrict in which ſuch ſheriff ſhall reſide, to enter up judgment, on motion, in the name of the governor, on the bond of the ſaid ſheriff, for the amount of the taxes due from ſuch ſheriff or ſheriffs and their ſecurities, which is hereby declared to be good and valid in law, and execution may iſſue thereon, directed to the ſucceeding ſheriff or coroner of the county wherein the delinquent ſheriff reſides, as if the ſheriff and his ſecurities had been proſecuted in judgment by the uſual proceſs of ſaid court, any law to the contrary notwithſtanding: *Provided*, The ſheriff ſhall have credit for delinquents and deficiency of payment to him in his collections, as ſhall be certified by the court of the county in which he is ſheriff.

20. *Be it enacted*, That if any ſheriff or other perſon holding public monies, ſhall preſume to demand or receive any fee, gift, gratuity, or diſcount, for paying or taking up any warrant or draft chargeable upon the taxes, as well of the ſtate as the county, every ſuch offender, upon due conviction in any court of record, ſhall forfeit and pay a ſum equal to double the amount of the draft ſo taken up, to be recovered by action of debt before any juriſdiction having cognizance, in the name of the perſon aggrieved, one half to the uſe of the ſtate or county, (as the caſe may be) and the other half to the uſe of the perſon aggrieved; and in caſe the aggrieved perſon will not proſecute as aforeſaid within ſix months, then in the name of him who will ſue for the ſame, one half to his own uſe and the other half as aforeſaid.

21. *Be it enacted*, That if it ſhall appear that the public treaſurer or treaſurers, have failed at any time to pay the public monies in their hands on drafts of the general aſſembly, or monies brought into the treaſury by ſpecial taxes, to thoſe authoriſed to apply for and receive the ſame, or hath neglected in any inſtance to call to account, as by this act directed, any delinquent therein deſcribed, by which the public revenue of this ſtate may ſuffer loſs, then in ſuch caſe the ſaid treaſurer or treaſurers ſhall be held and deemed accountable for the ſums due by ſuch delinquents to all intents and purpoſes as if the ſum had been actually paid into his or their office.

22. *Be it enacted*, That the ſheriff or ſheriffs of the ſeveral counties, or the public treaſurer, ſhall not diſcharge any drafts of the general aſſembly hereafter to be iſſued, except in ſaid draft it ſhall be particularly expreſſed the cauſe and ſervice for which the ſame was iſſued.

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23. *Be it enacted*, That the court of each county in this ſtate ſhall have power to lay and collect from each merchant, pedler, or hawker a ſum not exceeding five dollars, to be applied to the uſe of ſuch county reſpectively.

CHAP. V.

An act to repeal an act, entitled, "an act increaſing the juriſdiction of juſtices of the peace, and regulating proceedings therein," paſſed October twenty third, one thouſand ſeven hundred and ninety-nine; and for other purpoſes.

WHEREAS doubts exiſt in the minds of many perſons, whether the before recited act be repealed by an act of the General Aſſembly, paſſed ſixth November, one thouſand eight hundred and one, entitled, an act to define the juriſdiction of juſtices of the peace, and for other purpoſes—Wherefore to diſpel all doubts,

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That the before recited act, entitled, an act increaſing the juriſdiction of juſtices of the peace, and regulating proceedings therein, paſſed October twenty third, one thouſand ſeven hundred and ninety nine, and for other pupoſes, be, and the ſame is hereby repealed, any thing to the contrary notwithſtanding.

2. *Be it enacted*, That from and after the paſſing of this act, it ſhall not be lawful for any perſon to inſtitute a ſuit in any of the county courts of pleas and quarter ſeſſions in this ſtate, for any ſum under fifty dollars; and if any ſuit ſhould be brought therein for a leſs ſum, ſaid ſuit ſhall abate on the plea of the defendant.

3. *Be it enacted*, That for all ſums over thirty dollars, and not exceeding forty dollars, the ſtay of execution ſhall be one hundred days; and for all ſums over forty dollars, not exceeding fifty dollars, the ſtay of execution ſhall be one hundred and twenty days.

4. *Be it enacted*, That ſo much of the ſecond ſection of an act of the general aſſembly, entitled, an act to define the juriſdiction of the juſtices of the peace, and for other purpoſes therein mentioned, as require the conſtable to notify the abſentee a ſecond time, previous to the juſtice being authoriſed to enter up a judgment againſt ſuch party, be, and the ſame is hereby repealed.

CHAP. VII.

An act to amend an act, entitled, an act to prevent the exportation of unmerchantable commodities.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee*, That every perſon who now is, or hereafter may be appointed an inſpector of cotton agreeable to the above recited act,

ſhall, before he enters up the execution of the ſaid office, enter into bond with two good ſecurities, to be adjudged by the county court, whoſe duty it ſhall be to take ſuch bond (payable to the chairman of the court for the time being and his ſucceſſors in office) in the penal ſum of five thouſand dollars, conditioned for the due and faithful performance of his duty according to the directions of the before recited act, which bond ſhall be recorded by the clerk of the court, and ſafely kept by him, and to be aſſigned by the chairman of ſaid court to him, her, or them that may be injured by the non performance of the condition thereof; and ſaid bond ſhall not become void upon the firſt recovery had thereon, but ſuits may be commenced upon the ſame, until the whole penalty is recovered. And ſaid inſpector ſhall, at the time of entering into bond as aforeſaid, take and ſubſcribe, in open court, the oath preſcribed in the before recited act.

2. *Be it enacted*, That if any inſpector of cotton in this ſtate ſhall fail, refuſe, or neglect to enter into bond, and take the neceſſary oaths required by law, or preſume to execute the office of inſpector before he ſhall have given bond and ſecurity, and taken the neceſſary oaths, he ſhall for every ſuch offence forfeit and pay the ſum of ten thouſand dollars, one half to the uſe and benefit of him or them who will ſue for the ſame, and the other half to the uſe of the county where ſuch delinquent may reſide.

3. *Be it enacted*, That each inſpector of cotton ſhall iſſue a receipt for all cotton he may receive, if required by the owner clearly ſetting forth the quantity and quality of clean picked cotton to be by him delivered for the ſame, and the time of ſuch delivery; and any inſpector failing or refuſing to give ſuch receipt, when required, ſhall forfeit and pay the ſum of five thouſand dollars, to the ſole uſe of him or them who delivered ſaid cotton to ſaid inſpector, to be recovered before any juriſdiction having cognizance thereof.

4. *Be it enacted*, That it ſhall be the duty of each inſpector to cauſe to be packed and bailed all cotton by him received; and packed in a clean, and neat manner, fit for exportation, marking on each bale the groſs, tare, and net weight, and quality thereof; and ſhall mark thereon in large characters the name of ſuch inſpector, and his place of reſidence; and if any inſpector ſhall fail to pack, bale, and mark any cotton as contemplated by this act, he ſhall at his own proper coſts and charges repack the ſame; and ſhould any difference of opinion ariſe between the owner or owners of ſuch cotton and any inſpector, with reſpect to the manner in which the ſame may be packed, the owner of ſaid cotton ſhall chooſe one diſintereſted perſon and ſaid inſpector another, who ſhall view the ſame, and decide thereon; and in caſe ſuch perſons ſhould differ in opinion, they ſhall call in an umpire, whoſe determination ſhall be final; and ſhould ſaid inſpector fail or refuſe, upon requeſt, to call on ſuch fit perſon, the owner or owners of ſuch cotton may then call on ſuch perſons himſelf, who ſhall decide as aforeſaid; and ſhould ſuch perſons, ſo called on, determine ſaid cotton not to be bailed and packed

1803 as contemplated by this act, and ſaid inſpector ſhould refuſe to repack the ſame at his own proper coſts and charges, the owner or owners of ſuch cotton may cauſe the ſame to be repacked by other perſons, and recover of the ſaid inſpector, ſo refuſing to repack the ſame, all coſts, charges, and damages ſuch owner or owners may have ſuſtained thereby, and ſuch inſpector ſhall moreover forfeit and pay the ſum of five dollars for every bail of cotton not packed and marked as contemplated by this act, to the ſole uſe of ſuch owner or owners, to be recovered before any juriſdiction having cognizance thereof.

5 *Be it enacted,* That all receipts given by inſpectors of cotton, under the authority of this act, ſhall be aſſignable and negociable in the ſame manner as pointed out by an act of aſſembly of the ſtate of North Carolina, entitled, "an act for the more eaſy recovery of money due on promiſſory notes, and to render ſuch notes negociable."

6. *Be it enacted,* That during the receſs of any county court, inſpectors of cotton ſhall enter into bond before the chairman of ſaid court, and take and ſubſcribe the neceſſary oaths as directed by this act; and it ſhall be the duty of ſaid chairman to deliver ſuch bond and oath ſubſcribed, to the clerk of the court of ſaid county, to be diſpoſed as directed in the firſt ſection of this act.

CHAP. VIII.

An act to repeal part of an act paſſed the laſt ſeſſion of the general aſſembly, entitled, "An act to prevent the exportation of unmerchantable commodities.

WHEREAS from experience it hath been diſcovered that the inſpection directed and authoriſed by the aforeſaid act, on the articles of beef and pork, to be exported from this ſtate has been productive of conſiderable loſs to the good citizens thereof—For remedy whereof.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That ſo much of the before recited act, as relates to the inſpection of beef and pork, is hereby repealed and made void.

CHAP. XI.

An act for the puniſhment of certain offences therein mentioned.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That if any perſon ſhall wilfully or maliciouſly burn or cauſe to be burned any ſtacks of grain, hay, or flax, or any fences, boards, or timber or any other lumber, or throw down any fences, ſuch perſon ſhall on conviction thereof be fined, not

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exceeding five hundred dollars, and impriſoned not exceeding one year.

2. *Be it enacted*, That if any perſon ſhall cut out the tongue, cut off an ear or tail, or put out an eye of any beaſt, or otherwiſe diſmember or disfigure ſuch beaſt, maliciouſly or of purpoſe, or ſhall wilfully and maliciouſly kill, deſtroy, or wound the beaſt of another, ſuch perſon ſhall be fined, not exceeding two hundred dollars, and be impriſoned, not exceeding three months, and ſhall moreover pay to the owner of ſuch beaſt damages, to be recovered by an action of treſpaſs.

3. *Be it enacted*, That every perſon who ſhall wilfully and maliciouſly dig up, cut down, or otherwiſe deſtroy any fruit trees or corn growing in any field, garden or orchard, ſhall on conviction thereof be fined, not exceeding one hundred dollars, and impriſoned not exceeding three months, and ſhall moreover pay to the party aggrieved damages, to be recovered by an action of treſpaſs.

4. *Be it enacted*, That all proſecutions for offences againſt this act ſhall be by indictment, and ſhall be commenced in the court of the county wherein the offence ſhall have been committed.

5. *Be it enacted*, That this act ſhall be in force from and after the paſſing thereof.

CHAP. X.

An act to amend the third ſection of an act to direct the manner in which the ſeveral clerks and maſters of the court of equity, clerks of the ſuperior courts of law, clerks of the county courts, and the regiſters of each and every county ſhall ſettle with the treaſurer of their reſpective diſtricts, for the public taxes by them collected, paſſed October twenty ſixth, one thouſand ſeven hundred and ninety nine.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That there ſhall be collected for the uſe of the ſtate at the rate of ten cents per hundred acres on the regiſtration of each and every original grant, and the ſame on the regiſtration of each deed of conveyance for land, except deeds for town lots, or parts thereof, which ſhall be taxed twenty cents on each deed that hath or may hereafter be acknowledged or proved before one or more of the judges of the ſuperior courts of law and equity, or proved or acknowledged without the limits of this ſtate, and by law admitted to be regiſtered within this ſtate, or proved or acknowledged in the county court where ſuch land lies; and the regiſter may receive as compenſation for his ſervices, on regiſtering each deed of conveyance, or grant, when but one tract of land is conveyed, or but one warrant ripened into a grant, fifty cents; and in like manner where more than one tract is conveyed in ſaid deed, or in ſaid grant, then and in that caſe fifty cents on the firſt tract expreſſed in ſaid deed or grant, and twelve and an half cents on each other tract or warrant ſo included: *Provided nevertheleſs*, That where any deed

of conveyance contains tracts of land ſituate in different counties, the regiſter in each county ſhall regiſter the ſame.

CHAP. XI.

An act to authoriſe the ſeveral county courts in this ſtate, if they think it expedient, to lay a tax for the purpoſe of procuring a ſtandard of weights and meaſures.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That it ſhall and may be lawful for a majority of the juſtices of the ſeveral counties in this ſtate, when in ſeſſion, to lay a tax for the purpoſe of procuring a ſtandard of weights and meaſures; and the tax when laid, ſhall be collected and accounted for as other county taxes are; and after the ſtandard is procured, the ſurplus money, if any, ſhall be paid over to the county truſtee, for other county purpoſes; and the tax when laid ſhall not exceed four cents on each white poll; eight cents on each black poll; four cents on each hundred acres of land; eight cents on each town lot; twelve and one half cents on each ſtud horſe, kept for mares, nor five dollars on each billiard table; which tax, when collected ſhall be depoſited in the hands of ſuch perſon as may be elected by ſaid court to keep the ſtandard of ſuch weights and meaſures as is herein after mentioned, that is to ſay, ſealed weights of half hundred, quarters of hundreds, ſeven pounds, four pounds, two pounds, one pound and half pound; meaſures of ell and yard of braſs or copper; meaſures of half buſhel, peck and half peck, of dry meaſure; a gallon, pottle, quart, pint, and half pint of wine meaſure; ſtamps for braſs, tin, iron, lead or pewter, and alſo brands for wooden meaſures.

2. *Be it enacted*, That each ſtandard keeper when elected, ſhall take the following oath, viz:

I A. B. do ſolemnly ſwear, (or affirm, as the caſe may be) that I will not ſtamp or ſeal any weights or meaſures but ſuch as ſhall, as near as poſſible, agree with the ſtandard in my keeping, and that I will in all reſpects truly and faithfully diſcharge the truſt repoſed in me, to the beſt of my ſkill and judgment—So help me God.

3. *Be it enacted*, That the ſaid ſtandard keeper ſhall not demand or receive greater or larger fees than are herein after mentioned, that is to ſay, twelve and one half cents for each weight or meaſure ſo ſtamped or ſealed, under the penalty of fifty dollars, to be recovered by action of debt, before any juriſdiction having cognizance thereof, one half to the uſe of the county, and the other half to him or her that will ſue for the ſame.

4. *Be it enacted*, That it ſhall be the duty of each ſtandard keeper immediately upon the receipt of the weights and meaſures aforeſaid, to advertiſe at the muſter ground of each captain's company within his county, that ſuch ſtandard is in his poſſeſſion; the object of which is to preclude each citizen for the ſpace of three months from and after the date of the advertiſement aforeſaid, incurring the penalty hereinafter ſet

forth, namely, that if any perſon ſhall ſell any article by weight or meaſure, without firſt having his weights or meaſures branded or ſtamped, (as the caſe may be) agreeably to the directions contained in this act, ſuch perſon or perſons ſo offending ſhall forfeit and pay for every ſuch offence, the ſum of one dollar, to be recovered before any juriſdiction having cognizance thereof, one half for the uſe of the county and the other half to the uſe of ſuch perſon as may ſue for the ſame.

5. *Be it enacted,* That the ſtandard keeper ſhall, on the receipt of the money, enter into bond with approved ſecurity to the chairman of the court and his ſucceſſor, in office, conditioned for the purchaſing or procuring the ſtandard of weights and meaſures as aforeſaid; which ſtandard of weights and meaſures ſhall be kept in the town, or at the place where the court is holden in each county.

6. *Be it enacted,* That all laws and parts of laws which come within the purview and meaning of this act are hereby repealed and made void.

CHAP. XII.

An act providing for the appropriation of certain fines and forfeitures accruing from an act of the general aſſembly of this ſtate, paſſed October the twenty ſixth, one thouſand ſeven hundred and ninety nine, entitled "An act to ſuppreſs exceſſive gaming, and the more effectually to puniſh ſaid offences."

1. *Be it enacted by the General Assembly of the State of Tennessee,* That all fines and forfeitures that may have ariſen, or that may hereafter ariſe by virtue of the above recited act, ſhall be applied, one half to the uſe of any perſon who will ſue for the ſame, the other half to the uſe of the county wherein ſuch offence ſhall be committed, to be recovered by action of debt before any tribunal having cognizance thereof.

2. *Be it enacted,* That any perſon who ſhall play, within the meaning of the above recited act, ſhall be further liable to be indicted or preſented by the grand jury of the county in which ſuch offence ſhall be committed; and it ſhall be the duty of all or any of the citizens of the different counties in this ſtate, at the next court after ſuch offences may have been committed, to forthwith make information to the grand jury; and it ſhall be the duty of the grand jury to make the preſentment; and the perſon againſt whom ſuch preſentment ſhall be made, ſhall be liable to anſwer thereto, notwithſtanding any informality in any of the ſaid preſentments or indictments, and on conviction ſhall be liable to be fined in a ſum not leſs than five nor more than fifty dollars.

3. *Be it enacted,* That this act ſhall commence and be in force from and after the firſt day of January next.

CHAP. XIII.

An act to prohibit any perſon from uſing words in the hearing of any ſlave or perſon of colour, either publicly or privately, that may have a tendency to inflame their minds, or induce them to inſurrection; and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſe,* That if any perſon ſhall either publicly or privately ſpeak or utter any words in the hearing of any ſlave or perſon of colour, which in their nature will have a tendency to inflame the minds of any ſlave, or induce him or them to inſurrection, or to abſent him or herſelf from the ſervice of their owners, for every ſuch offence ſhall forfeit and pay the ſum of ten dollars, to be recovered by action of debt before any juriſdiction having cognizance thereof, one half to the uſe of the county, the other half to the perſon that will ſue for the ſame.

2. *Be it enacted,* That in order to explain what words will conſtitute a crime in contemplation of this act, it muſt be underſtood, that the perſon uttering or ſpeaking inflamatory words, ſuch words muſt be directed to, and in favor of general or ſpecial emancipation, or in direct or indirect terms to perſuade any ſlave or ſlaves to rebel againſt the perſon or the lawful commands of his maſter, miſtreſs, or others having due authority over him or them; or directly encourage any plot or combination againſt any of the laws of the United States, or of this ſtate, ſhall be liable as aforeſaid.

3. *Be it enacted,* That no perſon or perſons ſhall knowingly permit any ſlave or ſlaves to come, collect or aſſemble at his, her or their dwelling houſe, negro houſe or houſes, without a written paſs from the owner, overſeer, or perſon in whoſe employ ſuch ſlave or ſlaves may be, ſetting forth his, her or their buſineſs and time of abſence; every perſon ſo offending ſhall forfeit and pay the ſum of ten dollars, recoverable before any juſtice of the peace of the county in which ſuch offence may be committed, one half to the informer the other half to the uſe of the county; and it is hereby made the duty of every juſtice of the peace, on information made to him of any ſuch offence being committed within his juriſdiction, forthwith to iſſue his warrant directed to any lawful officer to bring before him or any other perſon in like official capacity, ſaid offender to be dealt with as by this act directed: *Provided nevertheleſs,* this act ſhall not be in force before the firſt day of May next.

4. *Be it enacted,* That if any perſon ſhall deal or traffic with any ſlave, without a permit in writing from his or her owner, ſetting forth the articles ſo to be traded, every ſuch offence ſhall be deemed a breach of the penal law, and puniſhable by preſentment of the grand jury, in any ſum not exceeding fifty dollars, nor leſs than ten dollars; and that this law ſhall be given in charge to the grand jury, whoſe duty it ſhall be to make all ſuch preſentments as may come within the knowledge of any one of their own body, or that may be given them by any perſon.

CHAP. XVI.

An act to amend an act, entitled, an act to regulate the proceedings of the courts of equity, and for amendment of the law.

WHEREAS by ſaid act the concurrence of two judges is neceſſary to make a decree, where the title of land ſhall come in queſtion; and it ſometimes haappens that all the judges but one are intereſted in the event of the ſuit, or ſo connected with the parties by affinity or conſanguinity, that they cannot preſide, by reaſon of which great delay and injuſtice is ſuſtained by ſuitors.—For remedy whereof,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That in all caſes where any two of the judges are intereſted in the deciſion of any ſuit, legally or conſtitutionally, in ſuch caſe it ſhall and may be lawful for the governor to appoint ſome perſon of law knowledge, in the ſame manner, and under the ſame regulations as pointed out by the conſtitution of this ſtate, in caſes where all the judges are concerned.

2. *Be it enacted*, That all laws coming within the purview and meaning of this act, be, and the ſame are hereby repealed.

CHAP. XVII.

An act for the puniſhment of the crime of counterfeiting or uttering any of the gold or ſilver coins current in the ſtate of Tenneſſee.

WHEREAS the law now in force and uſe in this ſtate againſt counterfeiters and utterers of baſe and counterfeit money, is found ineffectual to reſtrain thoſe evil practices;

1 *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That if any perſon after the paſſing of this act, ſhall falſely forge or counterfeit, attempt to forge or counterfeit any kind of coin of gold or ſilver, that now is or hereafter may be current within this ſtate; or ſhall make or conſtruct, or cauſe to be made or conſtructed, or have in poſſeſſion any dye, type, or other inſtuments for imitating or counterfeiting any of the ſaid coins, except in thoſe caſes where ſuch dye, type or other inſtrument may be ſeized in order to bring ſuſpected perſons to juſtice; ſuch perſon or perſons ſo offending, their counſellors, procurers, aiders and abettors being thereof lawfully convicted in any court of record within this ſtate, by confeſſion or verdict or ſtanding mute or arraignment on trial, ſhall for the firſt offence be fined in a ſum not exceeding five thouſand dollars, and impriſoned for a term of time not exceeding twelve months.

2. *Be it enacted*, That if any perſon or perſons ſhall utter or paſs, or attempt to utter or paſs, any counterfeit likeneſs of any kind of coin of gold or ſilver current in this ſtate, and

being thereof convicted by ſufficient evidence that the ſame was uttered or paſſed, or intended to be uttered or paſſed, with an intention to defraud, he or ſhe ſo offending ſhall, for the firſt offence, be fined in a ſum not exceeding three hundred dollars, and impriſoned for a term of time not exceeding ſix months.

3. *Be it enacted*, That if any perſon or perſons ſhall be found guilty of uttering or paſſing, or attempting to utter or paſs any counterfeit likeneſs of any kind of coin of gold or ſilver current in this ſtate, knowing the ſame to be baſe and counterfeit, for the ſecond offence he, ſhe or they ſhall ſtand in the pillory two hours, be fined in ſum not exceeding one thouſand dollars, and be impriſoned for a term not exceeding eighteen months.

4. *Be it enacted*, That on all trials and arraignments under this act, the defendant may make a peremptory challenge of five jurors.

CHAP. XVIII.

An act to compel the different ſheriffs, coroners and other officers to pay over money, by them collected, to the perſons authoriſed to receive the ſame.

WHEREAS great injuries and loſſes have ariſen to the good citizens of this ſtate, in conſequence of ſheriffs, coroners, and conſtables failing or refuſing to return executions which they have in their hands and to pay over the money collected on ſuch executions, when returned—For remedy whereof,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That if any ſheriff, coroner, or other officer of this ſtate ſhall fail or refuſe to make return of any execution that may have come to his hands, iſſuing from the clerk of the county, or clerk of the diſtrict where ſuch ſheriff, coroner, or other officer reſides, on or before the ſecond day of the term to which ſaid execution is made returnable, judgment may be rendered againſt ſuch officer and his ſecurities, for the amount of the money and coſts mentioned in ſuch execution, on motion of the party grieved, and proof that ſuch execution came to ſuch officer's hands.

2. *Be it enacted*, That when any ſherif, coroner, or other officer ſhall return any execution ſatisfied, or that the money called for in ſuch execution is collected, and ſhall not immediately on application pay the ſame to the perſon authoriſed to receive the ſame, judgment ſhall, on motion, be inſtantly entered up againſt ſuch officer and his ſecurities, for the full amount of ſuch judgment and coſts; and execution ſhall thereupon iſſue as in other caſes of a ſimilar nature.

3. *Be it enacted*, That when any perſon is taken by any of the officers aforeſaid, by virtue of an execution againſt the body, and such officer ſhall permit or ſuffer ſuch perſon ſo taken to go at large, ſuch officer ſhall on motion of the party at whoſe inſtance ſuch execution iſſued, have judgment entered

up againſt him and his ſecurities in the ſame manner as mentioned in the second ſection of this act.

4. *Be it enacted,* That in caſe of failure, neglect or refuſal of the ſheriff, coroner, or collector of county money of every deſcription whatever that comes into his or their hands, to pay the same to the truſtee of the county to which ſuch ſheriff, coroner, or collector belongs, it ſhall and may be lawful for the court of the county in which ſuch ſheriff, coroner or collector lives, on motion of ſaid truſtee to enter up judgment againſt ſuch ſheriff, coroner, or collector and his or their ſecurities at any time either before or after the expiration of his office, for all ſuch ſum or ſums of money as he or they may be chargeable with ; and execution thereupon ſhall iſſue againſt the goods and chattels, lands and tenements of ſuch ſheriff, coroner, or collector ſo failing and his or their ſecurities : *Provided,* that ſuch ſheriff, coroner or collector or in caſe of his or their abſence, their ſecurities or either of them ſhall have written notice of ſuch motion twenty days previous to the making thereof.

CHAP. XX.

An act the more effectually to prevent the injuries that may reſult to the good citizens of this ſtate by ſuffering ſtud horſes or ſtud colts to run at large, and for the encouragement of the bread of horſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the firſt day of May next, if any citizen or other perſon ſhall ſuffer any ſtud horſe or ſtud colt over fifteen months old to run at large, any juſtice of the peace, on due application made to him, that ſuch a perſon's ſtud horſe or ſtud colt is running at large, the juſtice is forthwith required to iſſue his warrant, directed to any lawful officer of his county, commanding him to ſummon the owner or owners of ſuch ſtud horſe or ſtud colt running at large as aforeſaid, to appear before ſome juſtice of the county, and upon due proof made to the juſtice, the owner or owners of ſuch ſtud horſe or ſtud colt, ſuffer them to run at large knowingly or willingly, then and in that caſe the juſtice ſhall enter up judgment againſt the ſaid defendent not exceeding twenty five dollars, nor leſs than five dollars, with legal coſts : Nevertheleſs the party thinking himſelf aggrieved may appeal to the county court, as in other caſes.

2. *Be it enacted,* That if any perſon drive ſtock to range out of the county in which he or ſhe lives, and any of ſaid ſtock conſiſts of ſtud horſes or ſtud colts over fifteen months old, on due application and proof made to any juſtice of the peace of the ſaid county, he ſhall direct ſuch ſtud horſe or colt to be gelded, under the immediate direction of ſome perſon acquainted with ſuch operation ; the expences attending which, ſhall be paid by the owner of ſuch horſe or colt, to be adjudged of by the court of the county where ſuch proceedings ſhall be

had; and ſhould any ſuch ſtud horſe or ſtud colt die in conſequence of being gelded as aforeſaid, the owner ſhall not be entitled to recover any damages therefor.

3. *Be it enacted*, That where any ſtud horſe or ſtud colt be found running at large, contrary to the intent and meaning of this act, the owner being unknown, in ſuch caſe the ſame proceeding ſhall be had, and the ſame reſtrictions obſerved as is provided by the ſecond ſection of this act, againſt perſons driving ſtud horſes or ſtud colts to range out of the county in which he or they live.

4. *Be it enacted*, That all fines impoſed by virtue of this act, ſhall be paid over by the conſtable or other officer receiving the ſame to the county truſtee, wherein ſuch fine ſhall be collected, and the ſaid money ſhall be applied by the court to county purpoſes.

CHAP. XXI.

An act to regulate and aſcertain ſheriff's fees.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the ſheriffs of the different counties within this ſtate ſhall take and receive the following fees for the following ſervices:

For every arreſt one dollar.

For returning a capias, non eſt inventus, thirty ſeven and an half cents.

For every bail bond twenty five cents.

For ſerving a copy of a declaration ſeventy five cents.

For ſerving a ſubpœna, for every perſon named therein, and making return thereof twenty five cents.

For returning the ſame not found, for every perſon named therein twelve and an half cents.

For ſerving a ſcire facias ſixty cents.

For returning the ſame not found thirty cents.

For pillorying any perſon and releaſement fifty cents.

For putting a perſon into the ſtocks and releaſement fifty cents.

For every commitment and releaſement fifty cents.

For ſerving a ſubpœna in equity ſixty cents.

For ſummoning a witneſs to a will or other writing thirty cents.

For ſummoning and empannelling a jury, in every caſe wherein a jury ſhall be ſworn twelve and one half cents.

For removing a criminal from the county jail to the diſtrict jail, for every mile ſix cents.

For executing every condemned perſon, including all neceſſary expences and ſervices twelve dollars and fifty cents.

Where a ſpecial venire ſhall iſſue by order of court, for ſummoning each juror and attending the ſame twenty five cents.

For attending on the premiſes, on a ſpecial venire facias, per day two dollars.

For making return of a writ of partition, or other writ of the ſame nature ſeventy five cents,

For ſerving a writ of poſſeſſion of land one dollar.

For ſerving and attending any perſon, on a habeas corpus, per day one dollar.

For ſerving a declaration in ejectment one dollar.

For whipping a perſon by order of court fifty cents.

For ſerving an attachment, the ſame as an arreſt: and if further trouble by removing of goods, to be taxed by the court.

For ſummoning each garniſhee ſixty cents,

For executing a warrant of diſtreſs, or an execution againſt the body or goods two and an half per cent.

For ſerving a capias on indictment one dollar.

For every time an action is called in court four cents.

For impriſonment of felons or any other perſon, for finding each priſoner per day with a ſufficient quantity of good and wholeſome food and water twenty five cents.

CHAP. XXII.

An act to amend the third and fourth ſections of an act, entitled, "An act to eſtabliſh a treaſury department," paſſed the thirteenth April, one thouſand ſeven hundred and ninety ſix, and to define the duties of ſaid treaſurers.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That the words "twenty thouſand" in the third ſection of the above recited act is hereby repealed, and in lieu thereof, each treaſurer ſhall enter into bond in the ſum of thirty thouſand dollars.

2. *Be it enacted*, That it ſhall be the duty of the governor for the time being, to commence ſuit in the ſuperior court of Hamilton diſtrict againſt each and every delinquent treaſurer, when thereto required by the legiſlature, and the money when collected, if from the treaſurer of Mero diſtrict, ſhall be paid into the treaſury of Waſhington and Hamilton diſtricts; but if it ſhall be recovered from the treaſurers of the diſtrict laſt mentioned, the ſame ſhall remain in the office of the clerk of Hamilton diſtrict, until regularly drawn therefrom purſuant to ſuch warrants as are recognized by law.

3. *Be it enacted*, That where any perſon ſhall be elected by virtue of this act, ſuch perſon ſhall immediately repair, with his ſecurities, into the houſe of repreſentatives, which houſe ſhall be conſidered as the ſole judges of the ſufficiency of ſuch ſecurities; and if at any time the ſaid ſecurity ſhall be deemed inſufficient, the ſpeaker of the houſe of repreſentatives ſhall declare the election void; in which caſe the legiſlature ſhall proceed to ballot for a ſecond treaſurer, who after entering into bond with approved ſecurity, ſhall in the preſence of the houſe of repreſentatives, take and ſubſcribe to the oaths contained in the third ſection of the above recited act: *Provided*, The foregoing reſtrictions as contained in this ſection ſhall not

extend to the treaſurer of Mero; but he ſhall at the ſucceeding ſuperior court for ſaid diſtrict, take the neceſſary oaths, and enter into bond and ſecurity to be approved by the judges of ſaid court, which bond ſo taken ſhall be entered of record in ſaid court, and put into the hands of one of the ſaid judges for the purpoſe of delivering the ſame to the ſecretary of this ſtate: *Provided further*, That if the treaſurer elect for the diſtrict of Mero ſhould not be at the ſucceeding ſuperior court, then and in that caſe, any one of the judges of ſaid court ſhall take his bond with ſufficient ſecurity, to be ſent to the ſecretary of ſtate, upon the receipt of which his commiſſion ſhall iſſue.

4. *Be it enacted*, That the treaſurers heretofore appointed, ſhall have full power to ſettle all their buſineſs that may remain unſettled at the time of their going out of office, in as full and as ample a manner as they had or could have done when in office: *Provided always*, As ſoon as the committee of finance make a ſettlement with either of the treaſurers, and they or either of them fail to pay the money they may be found in arrear and in their hands, that then and in thoſe caſes it may be lawful for the committee to direct the attorney general to bring the bond into court, and enter up judgment againſt the treaſurer or treaſurers and their ſecurities for the ſum or ſums they may be found in arrear, and execution ſhall iſſue for the ſame.

CHAP. XXV.

An act to confirm all marriages ſolemnized under the authority of what was called the ſtate of Franklin.

WHEREAS doubts exiſt in the minds of many of the reſpectable citizens of this ſtate, who were joined together in the holy eſtate of matrimony, under the authority of what was called the ſtate of Franklin, whether the ſaid marriages are legal, ſo as to permit the children and widows of the ſaid perſons to take their eſtates, conſiſtently with the laws now in force, to regulate deſcents of real eſtates, and to make proviſion for the widows, directing the mode of deſcents, and for diſtributing the perſonal property of inteſtates: Wherefore, to remove all doubts.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That all marriages ſolemnized under the authority of what was called the ſtate of Franklin, be and they are hereby confirmed, and all the children heretofore born in purſuance of of any marriage contracted or ſolemnized as aforeſaid, be and they are hereby made legitimate, if heretofore they have not been; and the ſaid children and widows ſhall take by deſcent, any real or perſonal eſtate of their parents, and widows of their huſbands, conſiſtently with the laws now in force, regulating the deſcent of real eſtates, making proviſions for widows, directing the mode of deſcents and the diſtributing the perſonal property of inteſtates, any law or uſage to the contrary notwithſtanding.

CHAP. XXXIX.

An act regulating the times of holding the courts of pleas and quarter ſeſſions in the counties now compoſing the diſtrict of Mero.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee,* That the courts of Wilſon county ſhall commence on the fourth Mondays of December, March, June and September annually.

The courts of Rutherford county ſhall commence on the firſt Mondays of January, April, July and October annually.

The courts of Williamſon county ſhall commence on the ſecond Mondays of January, April, July and October annually.

The courts of Davidſon county ſhall commence on the third Mondays of January, April, July and October annually.

3. *Be it enacted,* That the courts of the counties aforeſaid ſhall have power to ſit ſix days at each term and no longer, except the courts of Davidſon county, which ſhall have power to ſit two weeks at each term, until the end of the next ſtated general aſſembly of this ſtate and no longer.

CHAP. XLV.

An act to repeal part of a law paſſed the laſt ſeſſion of the general aſſembly of this ſtate, entitled, "An act to prevent the obſtruction of the navigation of certain rivers therein mentioned."

Be it enacted by the General Aſſembly of the State of Tenneſsee, That ſo much of the aforeſaid act as reſpects the obſtruction of the weſt fork of Red river, be and the ſame is hereby repealed, any thing to the contrary notwithſtanding.

CHAP. XLVII.

An act more effectually to prevent the profanation of the Lord's Day, commonly called the "The Sabbath."

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee,* That if any merchant, artificer, tradeſman, farmer, or any other perſon ſhall be guilty of doing or exerciſing any of the common avocations of life, or of cauſing or permitting the ſame to be done by his, her or their children or ſervants (acts of real neceſſity or charity excepted) on the Lord's day commonly called Sabbath, ſuch perſon or perſons on due conviction thereof before any juſtice of the peace within the county

where ſuch offence ſhall be committed, ſhall forfeit and pay the ſum of three dollars, one half to the perſon who ſhall ſue for the ſame, the other half for the uſe of the county wherein ſuch recovery may be had.

2. *Be it enacted*, That if any perſon ſhall be guilty of hunting, fiſhing or playing at any game of ſport, or of drunkenneſs on the Lord's day as aforeſaid; ſuch perſon ſhall be ſubject to the ſame proceedings and liable to the ſame penalties as are directed by this act againſt perſons working on the Sabbath.

3. This act ſhall commence and be in force from and after the firſt Monday of March next.

CHAP. LIII.

An act concerning roads and ferries.

WHEREAS inconveniences have ariſen from the preſent law relative to roads and ferries, particularly that part which requires two thirds of the juſtices of the peace in each county to be preſent when any order is granted for the laying off any new road or diſcontinuing any old one; and alſo when any new ferry is granted or old one diſcontinued, for remedy whereof,

Be it enacted by the General Aſſembly of the State of Tenneſſee, That a majority of the acting juſtices of the peace in each county ſhall be competent to the granting of any order for any new ferry or the diſcontinuance thereof.

CHAP. LIV.

An act for taking an enumeration of the free taxable inhabitants of this ſtate.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the commiſſioners appointed to take liſts of taxable property in each county within this ſtate ſhall take and make out in writing an accurate and complete liſt of the number of free taxable inhabitants who at the time of taking ſuch liſt live in the county in which ſuch commiſſioner is appointed; and it ſhall be the duty of each of the ſaid commiſſioners to return the liſt of taxable inhabitants ſo taken by him as aforeſaid, to the court of pleas and quarter ſeſſions to be held in and for the county in which he is commiſſioner, next before the firſt Monday in September, in the year one thouſand eight hundred and five.

2. *Be it enacted*, That it ſhall be the duty of each clerk of the courts of pleas and quarter ſeſſions, and they are hereby directed to take the aggregate number of the free taxable inhabitants in the county of which he is clerk, returned as by this act directed, and ſhall make out two accurate copies thereof, and the preſiding juſtice of the court, together with ſaid clerk, ſhall ſet their names thereto, one of which copies ſhall

be entered on the records of ſaid court and be preſerved in the office of ſaid clerk; and it ſhall be the duty of the preſiding juſtice of the court to tranſmit or cauſe to be tranſmitted the other copy to the office of ſecretary of this ſtate, on or before the third Monday of September, in the year of our Lord one thouſand eight hundred and five.

3. *Be it enacted*, That the ſecretary ſhall and is hereby directed to receive all ſuch liſts to him tranſmitted as by this act directed, and ſhall carefully preſerve the ſame, ſo that he may have them ready to be delivered to the general aſſembly when required.

4. *Be it enacted*, That if any commiſſioner appointed to take liſts of taxable property ſhall die, or by any other cauſe be rendered incapable of performing the duties therein enjoined, in ſuch caſe, it ſhall be the duty of the preſiding juſtice to appoint ſome fit perſon to take and receive the liſt as aforeſaid, who ſhall be ſubject to the ſame proceedings and entitled to the ſame emoluments as the commiſſioners appointed by this act.

5. *Be it enacted*, That each commiſſioner ſhall be allowed the ſum of one dollar for each hundred taxable inhabitants enumerated by him, and returned as directed by this act, which ſums ſhall be appropriated for at the next ſtated general aſſembly.

6. *Be it enacted*, That it ſhall be the duty of the commiſſioner, when taking the enumeration of any perſon or perſons to interrogate him or them whether he or they have been enumerated heretofore under the authority of this act, the object of which is, that no citizen ſhall be twice enumerated.

7. *Be it enacted*, That if any commiſſioner, clerk or juſtice ſhall neglect, fail, or refuſe to perform the duties enjoined by this act, ſuch neglect, failure or refuſal, on due proof thereof, ſhall be deemed a miſdemeanor in office unleſs ſufficient cauſe be ſhewn.

8. *Be it enacted*, That this act ſhall commence and be in force from and after the firſt day of January in the year one thouſand eight hundred and five.

CHAP. LV.

An act to appoint notaries public.

WHEREAS it will tend to the convenience of the citizens of this ſtate, and others trading hither, that notaries public ſhould be appointed:

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee*, That there ſhall be appointed in each judicial diſtrict, one notary public, elected by joint ballot of both houſes of the legiſlature, who ſhall hold his office during good behaviour; to whoſe atteſtation, proteſtation and other inſtruments of publication, due credence ſhall be given: *Provided*, That each notary public ſhall before he enters upon the duties of his office, in

ſome court of record within his diſtrict, give bond with good ſecurity, to the governor for the time being in the ſum of one thouſand dollars, conditioned for the faithful diſcharge of the duties of his office; and moreover ſhall take and ſubſcribe in ſome court of record within his diſtrict, an oath to ſupport the conſtitution of this ſtate, and of the United States, and further, that he will without favor or partiality, honeſtly, faithfully and diligently diſcharge the duties of notary public.

2. *Be it enacted*, That each notary public may demand and recieve for recording in a well bound book to be kept by him for that purpoſe, each atteſtation, proteſtation and other inſtrument of publication, the ſum of two dollars.

3. *Be it enacted*, That each notary public ſhall keep his office at the court houſe of the diſtrict in which he ſhall be appointed; and ſhall at his own coſt procure a ſeal of office.

CHAP. LVI.

An act to authoriſe the county courts within this ſtate, to grant privilege to erect gates acroſs public roads, which ſhall not be conſidered a nuiſance.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That in future, the ſeveral county courts within this ſtate ſhall have full power to grant licence to any of the citizens of their county to erect a gate or gates acroſs the public highway, when in their opinion it will be of advantage to an individual and not injurious to the public, provided ſuch gate ſhall not be leſs than twelve feet wide and eleven feet high.

2. *Be it enacted*, That where any perſon is privileged by this act to erect a gate for his or her own advantage, he or ſhe ſhall be at the expence of making and keeping ſuch gate in repair at his or her own expence, any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. LIX.

An act ſupplementary to an act paſſed at Knoxville, thirteenth November, Anno Domini one thouſand eight hundred and one, entitled, "An act prohibiting any ſtate's attorney or ſolicitor of a county from preferring a bill of indictment to any grand jury without a proſecutor marked thereon."

Be it enacted by the General Aſſembly of the State of Tenneſſee, That when it ſhall ſo happen that any indictable offence ſhall be committed during the ſitting of any of the county courts within this ſtate, and the ſame ſhall be within the knowledge of any of the juſtices of the peace for the county in which the court is ſitting, it ſhall be the duty of the ſolicitor for ſaid county, on information thereof being made to him by any one of the juſtices for ſaid county, to prefer a bill of indictment ex officio, any law, uſage, or cuſtom to the contrary notwithſtanding.

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CHAP. LX.

An act to repeal part of the ſecond ſection of an act entitled, "An act reſpecting dollars and cents, contracts and manner of keeping accounts," paſſed January the fifth, one thouſand ſeven hundred and ninety nine.

1. *Be it enacted by the General Assembly of the State of Tennesse,* That ſo much of the ſecond ſection of the above recited act, that requires all accounts kept, or contracts entered into where money is ſtipulated for other than are by ſaid act directed ſhall be void and not recoverable by law, is hereby repealed, any law to the contrary notwithſtanding, except as reſpects accounts kept by merchants, phyſicians and inn keepers.

2. *Be it enacted,* That this act ſhall be in force from and after the firſt day of September next.

CHAP. LXXVIII.

An act to authoriſe the appointment of one or more commiſſioners for the purpoſe of reviſing and compreſing into one volume the acts and ordinances of the governor and judges of the territory of the United States of America ſouth of the river Ohio; the acts of the territorial aſſembly; & the acts of the general aſſembly of this ſtate, together with a careful ſelection of the ſtatue laws of the ſtate of North Carolina, paſſed previous to the act of ceſſion, which are in force and uſe in this ſtate.

1. *Be it enacted by the General Assembly of the State of Tennesseee,* That Wilie Blount and Moſes Fiſk be and hereby are appointed commiſſioners to reviſe, ſelect and compile the acts and ordinances of the governor and judges of the late territorial government; the acts of the late territorial aſſembly; and the acts of the general aſſemby of this ſtate, which are now in force and uſe, and compriſe the ſame in one volume; and alſo to make and add thereto a careful ſelection of the ſtatute laws of North Carolina, paſſed previous to the paſſage and acceptance of the act of ceſſion; and to inſert in ſaid volume the charter from the crown of Great Britain, the lords proprietors great grant, the ordinance of Congreſs for the government of the territory north weſt of the river Ohio: the conſtitution of this ſtate, the conſtitution of the United States as amended ſince the ratification, of the act of congreſs admitting this ſtate into the union, the declaration of independence, the articles of confederation of the United States, together with the treaty of peace between the United States, of America and Great Britain: and further, the ſaid commiſſioners are hereby authoriſed and directed, that in making ſaid reviſal, ſelection, and compilation, to leave out all laws which have been repealed or which have become obſolete;

and it ſhall be the duty of ſaid commiſſioners to ſubjoin to ſaid volume a general index, with reference to each act, and the contents of each ſection.

2. *Be it enacted,* That it ſhall be the duty of ſaid commiſſioners to complete ſaid reviſal, ſelection and compilation ſo as to be ready to lay it before the next ſtated general aſſembly; which aſſembly ſhall then make ſuch allowance to them as ſhall be a full compenſation for their ſervices and expenditures.

CHAP. LXXIX.

An act to provide for the election of repreſentatives from this ſtate, to the congreſs of the United States, and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That in future elections for repreſentatives to congreſs, the ſtate ſhall be laid off into three diviſions; that is to ſay, the ſeveral counties now compoſing the diſtrict of Waſhington, ſhall conſtitute the eaſtern diviſion, and elect one repreſentative; the ſeveral counties now compoſing the diſtrict of Hamilton, ſhall conſtitute the middle diviſion, and elect one repreſentative; the ſeveral counties now compoſing the diſtrict of Mero ſhall conſtitute the weſtern diviſion, and elect one repreſentative.

2. *Be it enacted,* That all future elections for repreſentatives to congreſs ſhall be held at the times and places, and by the ſame perſons appointed in the ſeveral counties for holding elections for governor and members of the ſtate legiſlature; the qualifications of electors ſhall be ſimilar in each caſe; and it ſhall be the duty of the returning officers of the ſeveral counties to tranſmit to the general aſſembly at their next meeting thereafter, the votes for ſaid repreſentatives, in the ſame manner and under the ſame rules and reſtrictions as votes for governor; which votes ſhall be counted out in the preſence of both houſes of the legiſlature, and the ſpeaker of the ſenate ſhall announce the names of the perſons duly elected; who ſhall be commiſſioned by the governor upon a certificate ſigned by the ſpeaker of each houſe.

3. *Be it enacted,* That where two or more candidates in all or any of the diviſions aforeſaid, ſhall have an equal number of votes, the ſame ſhall be decided by a joint vote of both houſes of the legiſlature; and if the legiſlature ſhould be equally devided the deciſion ſhall take place by the caſting vote of the governor; and it is further provided, that when any informality or impropriety ſhould appear upon the returns for governor or repreſentatives as aforeſaid, the ſame ſhall be deemed legal, or otherwiſe according to the joint vote of both branches of the legiſlature, who are hereby declared to have full cognizance of all ſuch caſes.

4. *Be it enacted,* When any vacancy ſhall happen by the death or reſignation or otherwiſe, of any repreſentative to con-

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greſs, it ſhall be the duty of the governor to iſſue writs of election, directed to the ſheriffs of the different counties compoſing the diviſion where ſuch vacancy ſhall happen, which writs ſhall ſtate the time of holding ſuch elections; and the ſheriffs ſhall immediately upon the receipt thereof, advertiſe the ſame at ſix of the moſt public places in their counties.

5. *Be it enacted*, That the ſheriffs aforeſaid ſhall on the Monday next following ſuch elections, aſſemble at the diſtrict court houſe within the diviſion where ſuch vacancy may have happened, and compare the votes taken in ſuch diviſion; and if any two or more perſons have an equal number of votes, the ſheriff of the county where ſuch diſtrict court ſhall be held, ſhall give the deciding vote, and ſhall immediately make out two certificates, declaring the perſon who ſhall have the greateſt number of votes; which certificates ſhall be ſigned by all the ſheriffs or returning officers in the diviſion, one of which ſhall be delivered to the perſon having the greateſt number of votes, the other ſhall be delivered to the governor.

6. *Be it enacted*, That the ſheriffs, when aſſembled for the purpoſe of comparing the vots ſhall caſt lots to aſcertain whoſe duty it ſhall be to carry the ſame to the governor; and the perſon upon whom the lot ſhall fall, ſhall within ten days thereafter, deliver the certificate aforeſaid, to the governor at the ſeat of government, or in his abſence to the ſecretary of ſtate, upon the receipt of which certificate, the governor ſhall immediately make out a commiſſion for the perſon elected as aforeſaid.

7. *Be it enacted*, That the ſheriff who forwads the certificate aforeſaid to the governor, ſhall be entitled to receive the ſum of two dollars for each day neceſſarily engaged at the ſeat of government, and the like ſum for every twenty five miles in travelling to and from the ſame, which ſhall be paid by either of the treaſurers upon the account being produced, ſworn to before ſome juſtice of the peace or judge, and certified by him.

8. *Be it enacted*, That each of the ſheriffs or other returning officers appointed by virtue of the fourth, fifth and ſixth ſections of this act, ſhall be allowed the ſum of one dollar and fifty cents for every thirty miles travelling to and from the place appointed for the ſaid returning officers to convene and the ſame for each day he ſhall neceſſarily attend comparing the returns of ſaid elections, which ſhall be aſcertained upon oath of ſaid returning officers, before ſome judge or juſtice of the peace, & a certificate thereof ſigned by the ſaid judge or juſtice ſhall be given to each returning officer reſpectively, to be paid out of either of the public treaſurers of this ſtate; and if any of the aforeſaid ſheriffs or other returning officers ſhall fail to perform the duties enjoined on them by this act, he ſhall forfeit and pay the ſum of five hundred dollars, one half for the uſe of the ſtate, and the other half to him or them that will ſue for the ſame, to be recovered by action of debt

before any court of record in this ſtate, unleſs good and ſufficient cauſe be ſhewn for ſuch failure or non attendance.

9. *Be it enacted*, That all laws or parts of laws which comes within the purview and meaning of this act, are hereby declared to be repealed and made void.

CHAP. LXXXI.

An act concerning the agent from this ſtate to the ſtate of North Carolina.

WHEREAS by an act of the preſent ſeſſion of this general aſſembly it is provided, that an agent ſhall be appointed for ſettling all differences between this ſtate and North Carolina, reſpecting the land claims of this ſtate: And whereas it is neceſſary to aſcertain the outlines of the duties of the ſaid agent, and to provide adequate means to carry the ſame into effect,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That it ſhall be the duty of the ſaid agent if practicable to ſettle the ſaid differences conformable to the obligation of the law of nations, by conſulting the intereſt of both ſtates.

2. *Be it enacted*, That the ſaid agent is hereby directed and empowered to procure from the ſtate of North Carolina copies of the entry books of John Armſtrong, copies of warrants which have iſſued from Carter's office, together with a memorandum of the grants that have iſſued upon the ſame, their number, date, quantity of land contained in ſaid grants, and names of perſons to whom iſſued: Alſo, procure the number of warrants iſſued, to major Thomas Evans's battalion, and the names of the perſons to whom iſſued, and quantity of land in each; and alſo a full and complete copy of the report of Purviance and Gaither, relative to the titles of lands within this ſtate; all of which papers and copies or ſuch parts thereof when provided, ſhall be by ſaid agent laid before the general aſſembly at their next ſeſſion: And it ſhall alſo be the duty of ſaid agent to report as occaſion may require during the approaching ſeſſion of the legiſlature of North Carolina, and upon the final reſult of his miſſion, to tranſmit information thereof as early as poſſible to the executive of this ſtate.

3. *Be it enacted*, That the ſaid agent is authoriſed to employ one or more clerks on the moſt reaſonable terms for the intereſt of the ſtate to aſſiſt him in carrying this act into effect if neceſſary, who ſhall be ſworn before the ſaid agent well and truly to perform all the duties required of him by the ſaid agent relative to the executing the duties enjoined by this act, as he the ſaid agent may deem requiſite.

4. *Be it enacted*, That the ſaid agent ſhall as full compenſation for his ſervices and expences, be allowed as follows, five dollars for every thirty miles in travelling to and from Raleigh, and five dollars for every day neceſſarily engaged in ſaid buſineſs at ſaid place, which ſum ſhall be paid him out of any

money in either of the treaſuries not otherwiſe appropriated, upon a warrant drawn by the governor.

5. *Be it enacted,* That the documents to be procured as aforeſaid ſhall be carefully collated with the originals, by the aforeſaid agent and clerk or clerks, and a certificate thereof duly made under the hand and ſeal of ſaid agent, and atteſted by ſaid clerk or clerks, and it ſhall be the duty of the agent to lay before the next general aſſembly the number of clerks ſo employed, and number of days they attended, together with the allowance made by him to them, which ſhall be paid on a draft drawn by the executive out of any money in the treaſury not otherwiſe appropriated.

C H A P. LXXXII.

An act for the appointment of an agent on the part of this ſtate to go to the legiſlature of the ſtate of North Carolina for the purpoſe of finally ſettling and adjuſting the landed buſineſs between the two ſtates, and for other purpoſes.

WHEREAS juſtice, the genius of our confederated government and the principles of intercourſe which ſhould govern ſiſter ſtates, require, that any differences of opinion between North Carolina and Tenneſſee, reſpecting their eſſential intereſts ſhould be terminated by friendly explanation and adjuſtment, wherefore,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That John Overton, eſquire, be and is hereby appointed an agent on the part of this ſtate, to confer and agree with the legiſlature of North Carolina, or ſuch agent or agents as they may think proper to appoint, reſpecting the land titles of this ſtate, or any circumſtance or caſe relative thereto, and to make ſuch agreement, compromiſe or ſtipulation with the ſaid ſtate reſpecting the ſame as may be neceſſary to do juſtice to the citizens of both ſtates; and ſuch ſtipulations when made relative to the land titles aforeſaid, ſhall be the law of both ſtates when agreed to and enacted into a law by the legiſlature thereof.

2. *Be it enacted,* That an act of the general aſſembly of this ſtate, entitled, "an act to confirm and make good all lawful entries made and warrants and grants iſſued by the ſtate of North Carolina for lands lying within the limits of this ſtate, and to authoriſe the ſecretary and governor of the ſame to perfect titles on all lawful entries and warrants that are not yet perfected," be and the ſame is hereby ſuſpended until the next meeting of the general aſſembly, except the ſeventh ſection of the before recited act.

3. *Be it enacted,* That if it ſhould ſo happen that the agent appointed by this act ſhould refuſe to accept, or die after acceptance, the governor is hereby authoriſed and required to fill ſuch vacancy as aforeſaid, by appointing ſome proper perſon in the place of him ſo refuſing to act or dying after acceptance, any thing to the contrary notwithſtanding.

LAWS OF TENNESSEE.

Paſſed at the ſecond ſeſſion of the fifth General Aſſembly, began and held at Knoxville, on Monday the twenty third day of July, one thouſand eight hundred and four.

CHAP. I.

An act to empower the County Courts of Pleas and Quarter Seſſions, of the ſeveral Counties of this State to order the laying out Public roads, and to eſtabliſh and ſettle Ferries, and to appoint where Bridges ſhall be built.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That all roads and Ferries in the ſeveral counties in this ſtate, that have been laid out or appointed agreeable to law, are hereby declared to be public roads and ferries, and that from time to time and all times hereafter, the courts of the ſeveral counties in this ſtate, ſhall have full power and authority to appoint and ſettle ferries, rate the toll, and to order the laying out public roads where neceſſary, and to appoint where bridges ſhall be made, and to diſcontinue ſuch roads as are now, or ſhall hereafter be made, as ſhall be found uſeleſs, and to alter roads ſo as to make them more uſeful, as often as occaſion ſhall require; *Provided,* That a majority of the acting juſtices be preſent.

2. *Be it enacted,* That every county court within this ſtate is hereby authoriſed and empowered, to call on any perſon or perſons in their reſpective counties, to account for any monies ſuch perſon or perſons may have in his or their hands, by virtue of any diſtreſs heretofore made for default of working on any road in ſuch county, and all ſuch monies, to receive and apply towards keeping in repair the roads & bridges on which ſuch default was made.

3. *Be it enacted,* That all roads to be hereafter laid out, ſhall be laid out by a jury of freeholders to conſiſt of not leſs than five, nor more than twelve, to the greateſt advantage, of the inhabitants, and as little as may be to the prejudice of incloſures, which laying out ſhall be on oath, which oath ſhall be in the following words (to wit:)

I. A. B. do ſolemnly ſwear or affirm (as the caſe may be) that I will lay out the road now directed to be laid out by the court of pleas and quarter ſeſſions to the greateſt eaſe and advantage of the inhabitants, and with as little prejudice to incloſures as may be, without favour or affection, malice or prejudice, and to the beſt of my ſkill and knowledge.

4. *Be it enacted,* That all roads ſo laid off, ſhall be deemed public roads, and ſhall be at leaſt twenty feet wide, *Provided* it

is practicable from the ſituation of the ground, and where to the overſeers of roads it may be deemed expedient to make or repair cauſeways in the ſame roads, they ſhall be at leaſt fourteen feet wide, and the earth neceſſary to raiſe or cover the ſaid cauſeways ſhall be taken from each ſide of the cauſeway, and ſo made as to make a drain on each ſide of the cauſeway; and the overſeers of public roads are hereby directed to have completely cut and cleared all ſtumps, rocks, trees, bruſh and obſtruction, ſo far as is practicable for the width of ſixteen feet in the center of the road under their care, of which width, neceſſary bridges through ſwamps and over ſmall runs and creeks are hereby directed to be made.

5. *Be it enacted*, That where a bridge ſhall be neceſſary over any place when the overſeer with his aſſiſtance cannot make it, the court of that county wherein ſuch place ſhall be, is hereby empowered and required to contract and agree for the building, keeping, and repairing thereof, and to levy the charge in their county; and when bridges ſhall be made neceſſary over any ſuch creek or river which divides one county from another, the court of each county ſhall join in the agreement for building, keeping and repairing the ſame, and the charge thereof ſhall be defrayed by both counties in proportion to the number of taxables in each.

6. *Be it enacted*, That all and every contract, agreement and order by the courts of the counties aforeſaid, entered into or made, for or concerning the building, keeping or repairing bridges in ſuch manner, as to them ſhall ſeem moſt proper, ſhall be good againſt them and their ſucceſſors.

7. *Be it enacted*, That the juſtices of the courts through whoſe counties runs large water courſes or creeks which from the depth or rapidity of the water and width of the ſtream may be too burthenſome to build bridges and keep them in repair by a tax on the inhabitants, in ſhall and may be lawful for the majority of the juſtices of ſuch county where it may be neceſſary to contract with builders, to build toll bridges or expenſive cauſeways, for each of which, each court is hereby authoriſed and required to lay the toll to be paid on all perſons, horſes, carriages and cattle paſſing over the ſame; the revenue ariſing from which, for ſuch a number of years as the ſaid court may agree upon to be granted unto the builder of the ſaid bridges, their heirs and ſucceſſors for the building thereof, which bridges being built under the direction of the ſaid courts and the revenue ariſing from the toll thereof ſo granted, ſaid builder or builders his or their heirs or ſucceſſors ſhall keep in conſtant repair at his or their ſole expenſe, in default of which, on conviction, they are hereby declared to forfeit all right and title to the toll.

8. *Be it enacted*, That the courts of the ſaid counties ſhall annually appoint overſeers of the roads, whoſe duty it ſhall be to ſummon or notify all white males from the age of eighteen to fifty years and all owners of ſlaves to be notified to ſend their male ſervants from fifteen to fifty years of age, to attend at the time and place where appointed by ſaid overſeer, ex-

cept, judges of the ſuperior court, miniſters of the goſpel, keepers of public ferries, juſtices of the peace, the governor, ſecretary of ſtate and attorney general and any free white perſon ſending there ſlaves or any other three able perſons, *Provided*, that nothing herein contained ſhall be ſo conſtrued as to exempt their ſlaves from working on public roads within their diſtrict, to meet at ſuch places within their bounds as to them ſhall ſeem convenient for the repairing or making ſuch roads as ſhall be neceſſary ; and whoſoever ſhall upon ſuch notice, refuſe or neglect to do and perform their duty therein, ſhall forfeit and pay the ſum of ſeventy five cents per day for each perſon ſo neglecting or refuſing ; to be recovered by a warrant from any juſtice of the county and paid by the conſtable to the overſeer, and by him to be expended in hiring other hands to work on ſaid roads, *Provided*, where any perſon or perſons do not find it convenient to work as aforeſaid, they ſhall be exempt from all coſts and damages provided they pay into the hands of the overſeer of ſaid road the fine as by this act impoſed within ten days from the time appointed to work on ſaid road.

9. *Be it enacted*, That if any overſeer ſhall fail, refuſe or neglect to perform any of the duties enjoined on him by this act, or ſhall excuſe any perſon who may fail to attend, or take any treat, hire or bribe, ſuch overſeer for every ſuch offence, ſhall be liable to be indicted or preſented by the grand jury of the county wherein ſuch offence ſhall be committed, and it ſhall be the duty of the ſolicitors of the different counties in this ſtate to give this law in charge, to the grand jury each term of the county courts, whoſe duty it ſhall be to make preſentments, and when indicted or preſented ſhall be liable to anſwer to the ſaid indictments or preſentments and judgment ſhall be given thereon, notwithſtanding any informality therein.

10. *Be it enacted*, That any perſon refuſing to ſerve as overſeer on any road, agreeably to the order of the county court in which he reſides, ſhall forfeit and pay the ſum of fifty dollars for the uſe of the county, to be recovered by motion of the county ſolicitor at the time of the court next after he ſhall be informed of the refuſal of any perſon to ſerve as overſeers as aforeſaid unleſs the perſon or perſons ſo appointed ſhall ſhew to the court ſufficient cauſe for refuſal ; *Provided*, That no perſon ſhall be compelled to ſerve as overſeer of a road in any county more than one year in five. *Provided alſo*, That the overſeer ſhall give notice to each white perſon or the maſters, miſtreſſes or overſeers of ſlaves, what kind of tools they and each of them ſhall bring and work with on the roads at the time of notifying, and that the ſeveral perſons notified by the overſeer on the roads as aforeſaid, ſhall not be liable to pay any fine for not appearing and doing their duty, unleſs they ſhall be ſo notified three days before the day appointed for working.

11. *Be it enacted*, That all overſeers of roads, ſhall cauſe to ſet up at the forks of all roads within their ſeveral diſtricts ~~a poſt~~ or poſts with arms pointing the way of each and every

public road with directions to the moſt public places with the number of miles from that place as near as can be computed; and every overſeer, who ſhall neglect or refuſe to do and keep the ſame in repair, ſhall forfeit and pay for every ſuch neglect the ſum of five dollars to be recovered by action of debt before any juriſdiction having cognizance thereof, in the name of any perſon who will sue for the ſame, one half to his uſe, the other for the county; and every perſon or perſons, who ſhall wantonly remove, knock down or deface the ſaid arms ſhall for every ſuch offence, forfeit and pay the sum of fifty dollars to be ſued for in the name of any perſon who will ſue for the ſame before any tribunal having cognizance thereof, one half to his uſe, the other to the county.

12. *Be it enacted,* That the ſeveral overſeers of the roads within twelve months next after the paſſage of this act, ſhall cauſe the public roads within their diſtricts reſpectively, to be exactly meaſured where the ſame has not already been done and ſhall at the end of each mile, mark in a legible and durable manner, the number of ſuch miles, beginning, continuing and marking the ſame as has been heretofore in uſe; and every overſeer ſhall keep up and repair ſuch maks and numbers within his diſtrict, and every overseer neglecting or refuſing to mile mark, or repair the mile marks within his diſtrict, according to the intent and meaning of this act, for the ſpace of thirty days, after their appointments to office. after the expiration of the term allowing overſeers aforeſaid to have their roads ſurveyed or meaſured, ſhall forfeit and pay the ſum of five dollars to be recovered and applied as aforeſaid.

13. *Be it enacted,* That no perſon ſhall turn, alter or change any public road, unleſs it be by the order of the court of the county, founded on the report of a jury appointed and ſworn, as in the caſes of laying off new roads, under the penalty of five dollars for each month ſuch road is turned out of the old courſe without an order of court, to be recovered on a warrant before any juſtice of the peace, by any perſon ſuing for the ſame, and applied as aforeſaid, and that the old road ſhall in no caſe be ſhut up until the overſeer ſhall certify to the court that the new opened road is in good and ſufficient repair.

14. *Be it enacted,* That whoſoever ſhall fail to keep the roads and bridges clear and in repair, or let them remain uncleared or out of repair for and during the ſpace of fifteen days, unleſs hindred by extreme bad wether, ſuch overſeer ſhall forfeit for each and every such offence the ſum of five dollars over and above ſuch damages as may be ſuſtained, to be recovered by warrant from any juſtice of the peace by any perſon ſuing out the ſame and to be applied to his own uſe.

15. *Be it enacted,* That from and after the term of twelve months after the paſſing of this act, the courts in each and every county in this ſtate, ſhall have full power and authority and they are hereby directed and required to compel all perſons that were or ſhall hereafter be appointed to keep a public ferry or toll bridge to give good and ſufficient ſecurity in the ſum of two thouſand dollars payable to the chairman of the ſaid court and his ſucceſſors in office, with condition

1804 that he ſhall and will conſtantly find, provide and keep good and ſufficient boats or other proper craft, and keep ſuch bridges in good repair as the caſe may be, and always to be well attended for travellers or other perſons, their horſes, carriages and effects, over any river or creek, and if any perſon ſhall receive damages by any ferryman or keeper of a toll bridge not having complied with the condition of his bond the perſon receiving ſuch damage ſhall and may bring an action of debt againſt ſuch ferryman or bridge keeper, on ſuch bond in the name of the Chairman, and recover for the non performance of the ſaid condition ſo much damages as he, ſhe or they ſhall have ſuſtained, and thereupon take out execution for whatever ſhall be ſo recovered, and apply the ſame to his, her or their own uſe; and it ſhall and may be lawful for any perſon detained at any public ferry by reaſon of the ferryman not having ſufficient boats or other proper crafts and hands or by neglecting to do his duty by a warrant from a juſtice of the peace to recover of ſuch ferryman or bridge keeper the ſum of ten dollars for every ſuch default or neglect: *Provided*, that any ſuch recovery ſhall not be deemed to bar an action for any damages ſuffered by any perſon or perſons, by reaſon of the inſufficiency of ſaid ferry boats and bridges.

16. *Be it enacted*, That the overſeers of the ſeveral roads within this ſtate, are hereby authoriſed to cut poles and other neceſſary timber to enable them to comply with the duties enjoined on them in repairing and making bridges and cauſeways without incurring any penalty thereby.

17. *Be it enacted*, That the juſtices of the reſpective county courts ſhall have power to deſignate in the overſeers order the bounds in which ſuch perſons do reſide who ſhall be ſubject to work on each road in their counties, ſo that no perſon ſhall be compelled to work on more than one road.

18. *Be it enacted*, That all ferries and toll bridges ſhall be free to electors on days of election of members to the General Aſſembly; General and private muſters and Repreſentatives to the congreſs of the United States in going to and returning from the ſame.

19. *Be it enacted*, That where any perſon ſhall conceive himſelf injured by laying out any road as directed by this act, it ſhall be lawful for the court of the county on complaint made by ſuch perſon to order a jury to be ſummoned to view ſuch road and aſſeſs the damages to be paid by the county, or turn the road to the moſt convenient place, taking into view the public good as well as injury the individual ſo injured may ſuſtain.

20. *Be it enacted*, That all ferry keepers ſhall keep the banks of the river in good repair where they ſhall keep ferries on both ſides of the water courſes, or where they keep a ferry on one ſide of a water courſe, or be ſubject to the ſame penalties as overſeers of public raads are liable to, for ſuffering their roads to be out of repair.

CHAP. IV.

An act to amend an act, entitled, "An act for the better eſtabliſhment of the militia of this ſtate," paſſed fifth November, one thouſand eight hundred and three.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſage of this act, whenever any officer of the militia ſhall hereafter declare himſelf a candidate for a higher office or commiſſion, the commiſſion by him before held; ſhall become vacant from and after ſuch declaration, and to explain more fully what ſhall be a declaration, it ſhall be the uttering of ſuch words in the hearing of a company who are authorized to elect ſuch officer or offering, on the day of election.

2. *Be it enacted,* That whenever vacancies may be in any diviſion or brigade by death, reſignation or otherwiſe if it ſhould be a major general and the brigadier may want to reſign, ſuch reſignation ſhall be made to the governor, who is hereby directed to iſſue his writ to fill ſuch vacancy. But if there ſhould be no brigadier general properly qualified, and a colonel or major of ſuch brigade may think proper to reſign, ſuch reſignation ſhall be made to the major general of the diviſion to which they belong; and it ſhall be the duty of the major general to iſſue a writ to fill ſuch vacancy; and in caſe there is neither brigadier nor major general, the governor ſhall iſſue writs to fill all vacancies of field officers in ſuch brigade.

3. *Be it enacted,* That by the twenty ſixth ſection of the before recited act, the different officers of the militia are obliged to appear on parade properly armed, under the penalty ſet forth in ſaid ſection agreeably to their rank, and ſhould any officer appear on parade without being dreſſed in the uniform as preſcribed by the above recited act, they ſhall be ſubject to the like penalties as if not armed, which ſhall be recovered in the ſame manner.

4. *Be it enacted,* That it ſhall and may be lawful for the ſeveral battalion courts martial in the different counties in this ſtate to exempt any private or non-commiſſioned officer, ſubject to military duty, from being obliged to appear on parade equipped in the manner preſcribed in ſaid act, provided, it appears to the ſatisfaction of ſaid court martial, on the oath of any perſon wiſhing ſuch exemption, or on the oath or affirmation of any diſintereſted witneſs that ſuch applicant is not able to equip himſelf in the manner contemplated in the above recited act, without material injury to himſelf or family.

5. *Be it enacted,* That ſo much of the before recited act, as makes it the duty of the ſergeant of the different captains companies to collect the fines and forfeitures created by ſaid act, is hereby repealed and henceforth it ſhall be the duty of the ſheriffs of the different counties to collect and pay the ſame over agreeably to the proviſions of the before recited act, who

ſhall receive the ſame compenſation as the ſergeants were entitled to, and liable for not performing the ſame, to the ſame penalties for not collecting and accounting for the money in their hands collected by execution.

6. *Be it enacted*, That where it may happen that a company is without officers, and none will ſerve, then in that caſe, it ſhall be the duty of the commanding officer of the regiment to attach ſuch company or companies by dividing them or otherways as he may think proper, to the company or companies adjoining.

7. *Be it enacted*, That from and after the paſſage of this act, it ſhall and may be lawful for the ſeveral battalion muſters in the different counties in this ſtate, to exempt any perſon ſubject to military duty from being obliged to appear on parade excepted in the manner preſcribed in ſaid act. *Provided*, it appears to the ſatisfaction of the ſaid court martial on the oath of any perſon wiſhing ſuch exemption or on the oath or affirma- of any diſintereſted witneſs that ſuch applicant is not able to equip himſelf in the manner contemplated by that act without injury to his family.

CHAP. VII.

An act aſcertaining the ſaleries of the ſeveral officers of government, hereinafter named

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That from and after the firſt day of October eighteen hundred and five, the governor ſhall be allowed for each and every year, the ſum of one thouſand dollars for his ſervices as executive of this ſtate, which ſum may be drawn from either of the public treaſuries of this ſtate as heretofore preſcribed by law.

CHAP. IX.

An act to compel the attendance of witneſſes before juſtices of peace, and to compel ſheriffs or jailors of the different counties within this ſtate, to receive and confine in jail, all perſons who may be arreſted by virtue of executions iſſued by juſtices againſt the body, and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That when it ſhall be neceſſary for any perſon to attend as a witneſs before a juſtice of peace, in any matter to be tried before him, the ſaid juſtice ſhall iſſue a ſubpœna as heretofore, and that upon the ſaid ſubpœna being legally ſerved, then it ſhall be the duty of the perſon ſo ſummoned as aforeſaid to attend agreeable to the tenor of ſaid ſubpœna ; and upon failure thereof ſhall be ſubject to an action of damage to the party injured.

2. *Be it enacted*, That each witneſs attending as by this act

directed, ſhall for each and every day he or ſhe ſhall attend, receive as compenſation the ſum of twenty five cents, to be taxed with the bill of coſts and paid by the party caſt.

3. *Be it enacted,* That when any execution ſhall be iſſued by a juſtice of the peace againſt the body of any perſon, on a legal judgment firſt had and obtained, then the officer executing the ſame, ſhall forthwith deliver the perſon arreſted to the ſheriff or jailor of the county in which the execution iſſued, who is hereby commanded to receive all ſuch perſons and confine them in the priſon of ſaid county, until the debt and coſts for which the ſaid execution iſſued be paid and ſatisfied ; and the ſaid ſheriff or jailor ſhall in like manner receive the body of each and every perſon arreſted by warrant for debt, who may fail or refuſe to enter into bond with ſecurity, agreeable to an act, entitled, "An act defining the juriſdiction of juſtices of the peace."

CHAP. XI.

An act to declare what ſpecies of merchandize and manufactories may be ſold by retail or otherwiſe without ſubjecting the ſeller to the penalties ſet forth in an act entitled "An act aſcertaining what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for and paying public taxes," paſſed the ſeventh November, one thouſand eight hundred and three, and for other purpoſes.

3. *Be it enacted,* That ſo much of the before recited act, as obliges the treaſurers of this ſtate to enter up judgments againſt delinquent ſheriffs in the ſuperior courts of the diſtricts where ſuch ſheriffs reſide, be, and the ſame is hereby repealed ; and that it may be lawful for ſaid treaſurers to enter up judgments againſt delinquent ſheriffs in the diſtrict courts where the ſaid treaſuries are kept, any thing to the contrary notwithſtanding.

CHAP. XIV.

An act ratifying and confirming an act of the general aſſembly of the ſtate of North Carolina, entitled, "An act to authoriſe the ſtate of Tenneſſee to perfect titles to lands reſerved to this ſtate by the ceſſion act."

Be it enacted by the General Assembly of the State of Tennessee, That the ſaid act of the general aſſembly of the ſtate of North Carolina in the words following (to wit :)

"An act to authorize the ſtate of Tenneſſee to perfect titles to lands reſerved to this ſtate by the ceſſion act."

Be it enacted by the general aſſembly of the ſtate of North Carolina, and it is hereby enacted by the authority of the ſame, that upon this act being agreed to, and ratified by the ſtate of Tenneſſee, as an agreement between this ſtate and the ſaid ſtate of Tenneſſee, and upon the aſſent of Congreſs being obtained thereto, the ſaid ſtate of Tenneſſee ſhall have full pow-

1804 er and authority, and is hereby veſted with full power and authority to iſſue grants, and perfect titles to all claims of land lying in the ſaid ſtate, which under, and agreeably to an act, entitled, "An act for the purpoſe of ceding to the United States of America, certain weſtern lands therein deſcribed," paſſed by the legiſlature of this ſtate, in the year one thouſand ſeven hundred and eighty nine, remained and were reſerved by the ſaid act, to be iſſued and perfected by this ſtate, in as full and ample a manner as the ſtate of North Carolina poſſeſſed the ſame, under the following conditions and reſtrictions, (to wit:)

That no grant ſhall be iſſued by the ſaid ſtate for any lands which, by the aforeſaid act, and the laws of this ſtate then in force, or made in purſuance thereof, ſince the paſſing of ſaid act, might not have been iſſued by this ſtate. Nor ſhall any grant be valid, but thoſe iſſued on bona fide claims, and within the proviſions and reſervations of the before recited act, and ſuch as would have been valid, if the ſame had been iſſued by this ſtate under the act aforeſaid, and the laws then in force; and ſuch as have been ſince made in purſuance of ſaid act of ceſſion.

That in entering and obtaining titles to lands, no preference ſhall be given to the citizens of Tenneſſee over citizens of any other ſtate, claiming under this ſtate; nor ſhall any occupancy or poſſeſſion give preference in entering or obtaining titles, ſo as to injure or take away the right of any perſon now claiming by entry, grant, or otherwiſe under this ſtate.

That no grant ſhall iſſue to Martin Armſtrong, or his deputies, or any perſon or perſons claiming under him or them, for any ſervices as ſurveyor, until a final ſettlement between the ſtate of North Carolina and the ſaid Armſtrong ſhall be made; after which grants ſhall iſſue for ſuch lands as he may be entitled to.

That this ſtate reſerves excluſively the right of iſſuing military warrants.

In iſſuing grants on military warrants, entries made in Martin Armſtrongs office, until he was ſuſpended by this ſtate, ſhall be prefered, and next to thoſe the entries which have been made in the office of William Chriſtmas who is hereby continued and confirmed as the ſurveyor of the lands on all entries in the entry takers books in his poſſeſſion, not heretofore ſurveyed, during his good behaviour. Alſo, that John Brown be continued and confirmed as the ſurveyor of the lands in the eaſtern diſtrict, in room of Stokely Donelſon, during his good behaviour. That the ſaid William Chriſtmas and John Brown enter into bond in the ſum of five thouſand pounds each, with ſufficient ſecurity payable to the ſtate of Tenneſſee, for the faithful diſcharge of the duties repoſed in them.

That the ſecretary of this ſtate ſhall continue to iſſue grants upon all ſurveys returned, or that ſhall be returned to his office, before the ratification of this agreement or compact between the two ſtates, by the ſtate of Tenneſſee.

And in order that the ſtate of Tenneſſee may poſſeſs the information neceſſary to the detection of fraud in obtaining claims and grants to lands lying in that ſtate, and for the purpoſe of facilitating the execution of good titles, all warrants and plats upon which grants ſhall not have iſſued, at the time of the ratification of this compact by the ſtate of Tenneſſee ſhall be delivered to any agent or agents of that ſtate, duly authoriſed for that purpoſe ; and that the agent or agents of the ſaid ſtate be permitted to take copies of all grants, or any other paper or papers which concern the land claims within the ſtate of Tenneſſee, in the ſecretaries office of this ſtate : And notwithſtanding ſuch copies may be received as legal evidence in the ſtate of Tenneſſee, it is always to be underſtood as a proviſion, that any tranſcript from ſaid office of this ſtate, ſhall, at all times hereafter, be received as evidence in the ſtate of Tenneſſee.

That ſo much of this act as relates to the taking of copies by the agent or agents of Tenneſſee, from the ſecretaries office, ſhall take effect from the paſſage hereof. Provided, that none of the ſaid copies ſhall be removed or taken out of the office of the ſecretary until the governor of this ſtate ſhall be notified by the governor of the ſtate of Tenneſſee, of the ratification of this act on the part of the ſtate of Tenneſſee, and until the governor ſhall alſo receive a notification of the aſſent of the Congreſs of the United States being obtained thereto.

That in taking tranſcripts by the agent or agents of Tenneſſee from the ſaid office, the books and papers ſo to be tranſcribed, ſhall always be under the care of the ſecretary of this ſtate ; and that as a compenſation for ſuch care and trouble, the ſtate of Tenneſſee ſhall pay the ſaid ſecretary ſix hundred dollars, in two inſtalments ; the firſt inſtalment of three hundred dollars to be payable within ſix months after the ratification of this act on the part of the ſtate of Tenneſſee ; and the ſecond inſtalment whenever the ſaid ſtate of Tenneſſee ſhall procure by its agent or agents tranſcripts of the grants iſſued by the ſtate of North Carolina for lands lying in the ſtate of Tenneſſee, as aforeſaid, and ſuch other papers as he may deem neceſſary relative to the landed property of ſaid ſtate." Which ſaid foregoing recited act of the general aſſembly of the ſtate of North Carolina, paſſed at a general aſſembly of ſaid ſtate, begun and held at Raleigh on the twenty firſt day of November, in the year of our Lord one thouſand eight hundred and three and in the twenty eighth year of the Independence of the ſaid ſtate, be and the ſame is hereby agreed to and ratified by this ſtate, as an agreement between this ſtate and the ſtate of North Carolina, veſting this ſtate with full power and authority to iſſue grants and perfect titles to all claims of lands lying in this ſtate in as full and ample manner as the ſaid ſtate of North Carolina poſſeſſed the ſame, to all intents and purpoſes whatſoever, any thing to the contrary notwithſtanding.

CHAP. XXII.

An act for opening the navigation of the North fork and Holſtein rivers.

WHEREAS application has been made to this general aſſembly by the ſtate of Virginia, for opening the navigation of the North fork and Holſtein rivers to the junction of the Holſtein and Tenneſſee rivers, and this legiſlature admitting the propriety of ſaid requiſition by conceiving that nature has deſigned all rivers to be occupied as public highways, and as a right in common to the citizens of this ſtate as well as all others. and that the policy of this infant government, is to cheriſh and promote all its commercial advantages, and as far as poſſible to encourage enterprize and induſtry and whereas it is repreſented to this general aſſembly that the North fork of Holſtein is navigable, and that a dam has been erected on the ſame near the mouth thereof within the limits of this ſtate—Therefore—*Be it enacted by the General Aſſembly of the State of Tenneſſee,* That the abovementioned north fork of Holſtein is hereby declared a common highway free for the uſe and navigation of the citizens of the United States in common with the citizens of this ſtate. And whereas the ſaid above mentioned dam prevents the paſſage of boats and fiſh to the great damage as well of a conſiderable portion of the citizens of Virginia as this ſtate and to the entire hindrance of trade and commerce by the ſame. And whereas the ſaid dam was erected when the population of this country was ſmall. and navigation little thought of and the works for which ſaid dam were erected were and ſtill may be uſeful to the community; this aſſembly are therefore unwilling to abate the ſame if the paſſage of boats and fiſh can be ſecured with eaſe and facility without. And whereas is is further repreſented a lock and ſlope can be erected on the ſaid dam, for the ſum of five hundred dollars, two hundred and fifty of which the ſtate of Virginia will—

1. *Be it enacted,* That the ſum of two hundred and fifty dollars, be, and the ſame is hereby appropriated ſo ſoon as an equal ſum be advanced on the part of Virginia, for the erection of a lock & ſlope in the ſaid dam which ſaid ſum ſhall be paid to the order of the following gentlemen, to wit, Walter King, William Bradley and John Alexander who are hereby appointed commiſſioners on the part of this ſtate and who in conjunction with the commiſſioners on the part of Virginia, ſhall let out to the loweſt bidder on the firſt Monday of February next at Roſſvills, after advertiſing the ſame one month in one of the Gazette's of this ſtate, the building and erecting the ſaid lock and ſlope of the demenſion hereafter mentioned, and ſhall take bond and ſecurity from the perſon or perſons who ſhall undertake the ſame, to execute and finiſh the ſaid work on or before the firſt Monday of July next, under the penalty of one thouſand dollars, and moreover be liable to the action of any perſon or perſons for any dam-

age they may ſuſtain by detention of boats, after the ſaid laſt mentioned day, *Provided nevertheleſs* that ſhould the ſaid David Roſs chooſe to be the undertaker for building and erecting the ſaid lock and ſlope for the ſum of five hundred dollars the ſame ſhall be advanced him in caſe he or his agent notify the commiſſioners aforeſaid of his intention or wiſh to undertake the ſame on or before the firſt Monday of November next.

2. *Be it enacted*, That the ſaid lock ſhall be eighty feet long and thirty ſix feet wide, the Forge race to be one ſide the gates at leaſt fifteen feet wide, ſo as to admit the paſſage of boats with the utmoſt facility and that the ſlope for the paſſage of fiſh be at leaſt thirty feet long and ten feet wide, ſo formed as to permit the eaſy paſſage of fiſh. The lock and ſlope to be erected at ſuch convenient place or places of the ſaid dam as the above mentioned commiſſioners ſhall direct having due regard to the work already erected ſo as not to cut away or remove more of ſaid dam than is neceſſary for the erection of ſaid lock and ſlope ſo as to effect the purpoſe intended by this law; *Provided alſo*, that the materials for erecting ſaid lock and ſlope ſhall be hued timber, plank and ſtone and ſo conſtucted as to inſure the moſt poſſible permanency.

3. *Be it enacted*, That it ſhall and may be lawful for the perſon or perſons who ſhall undertake the erection of ſaid lock and ſlope to quarry ſtaone cut timber &c. on any part of the lands given by the State of North Carolina to the ſaid David Roſs as a premium for building Iron works, or any other lands lying convenient to ſaid dam, and ſhall not be liable to any action therefor, and that the perſon or perſons ſo as aforeſaid mentionee ſhall have liberty to haul ſuch materials by the moſt convenient rout and the commiſſioners of both ſtates ſhall make to the ſaid David Roſs a reaſonable allowance for the neceſſary timber and ſtone.

4. *Be it enacted*, That as ſoon as the ſaid lock and ſlope ſhall be completed and received by the above mentioned commiſſioners or a majority of them, the ſame ſhall be kept in good repair at the entire expence of the ſaid David Roſs, his heirs &c. who on failure thereof, ſhall not only be liable to any perſon or perſons injured by detention or otherwiſe, but ſhall forfeit all right and title he now hath or poſſeſſes to the dam aforeſaid, & the ſame ſhall be conſidered as a nuiſance and liable to be removed or ſo much thereof as will permit boats, barges &c. to paſs in perfect ſafety, any law, uſage or cuſtom to the contrary notwithſtanding.

5. *Be it enacted*, That this act ſhall not have force nor take effect until ratified and confirmed by the legiſlature of the ſtate of Virginia.

1805

LAWS OF TENNESSEE.

Paſſed at the firſt ſeſſion of the ſixth General Aſſembly, began and held at Knoxville, on Monday the ſixteenth day of September, one thouſand eight hundred and five.

CHAP. I.

An act to compel the clerks of the courts of equity, clerks of the ſuperior courts of law, clerks of the county courts, regiſters and rangers of the different counties in this ſtate, to keep their offices at the places of holding their reſpective courts.

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That from and after the firſt day of Auguſt next, the clerks of the courts of equity, clerks of the ſuperior courts of law, clerks of the county courts, regiſters and rangers, either by themſelves or lawful deputies, ſhall keep their offices within the county town, or place eſtabliſhed by law for holding their reſpective courts, and that all the public papers and records belonging to their ſaid offices, be and at all times remain there.

2. *Be it enacted*, That it ſhall at all times after the ſaid firſt day of Auguſt, be the duty of each of the ſaid officers, by himſelf or deputy, to give due attendance at their ſaid offices, for the purpoſe of performing their official duties under the regulations and reſtrictions ſet forth in an act, entitled, "An act authoriſing the ſeveral courts to remove their clerks for miſbehaviour in office." Paſſed at Knoxville, November 13th, 1801.

CHAP. II.

An act to authoriſe the different ſuperior or county courts of law in this ſtate to alter the names of illegitimate perſons.

WHEREAS the frequent applications to this general aſſembly, have become troubleſome, and have a tendency to expoſe the morals of ſociety, and unneceſſarily put the ſtate to conſiderable expence for public printing, and time of the legiſlature. For remedy whereof:

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That from and after the paſſing of this act, any of the ſuperior or county courts of law in this ſtate, ſhall have full

power and authority to alter the name of any illegitimate perſon on application of any perſon wiſhing to make legitimate any of their off ſpring not born in wedlock : *Provided*, ſaid applicant intends to make ſaid illegitimate perſon heir, or joint heir to his or her eſtate.

2. *Be it enacted*, That each applicant ſhall prefer a petition to the court, ſetting forth his or her reaſons for legitimating ſaid perſon ; and if the court ſhould think the reaſons ſufficient as ſtated in the petition, they ſhall direct the petition to be recorded at length, together with the opinion of ſaid court, that ſaid perſon made legitimate as aforeſaid, have become heir or joint heir of the perſon petitioning.

3. *Be it enacted*, That the clerks of the ſuperior or county courts, ſhall receive the ſum of two dollars, to be paid by the perſon applying for the ſame, as a full compenſation for his ſervices.

CHAP. VI.

An act declaring certain words actionable, and to enable perſons indicted for libels to give the truth of the matter in evidence, under the plea of not guilty.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee*, That if any perſon ſhall wrongfully & maliciouſly utter publiſh and declare any words of another, importing a charge of adultery or fornication, he, ſhe or they, ſhall be liable to an action at the ſuit of the party injured.

3. *Be it enacted*, That in caſes of indictments for libels, the perſon or perſons charged, may give the truth of the matter charged in the indictment in evidence, under the plea of not guilty, and ſhall have every advantage thereof, that they now can have under any plea of juſtification in actions for libels.

CHAP. VII.

An act to compel the attendance of Commiſſioners appointed for the regulation of the different towns in this ſtate.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee*, Thhat it ſhall be the duty of each and every commiſſioner appointed for the regulation of the reſpective towns in this ſtate, to meet at the time and place appointed by the board of commiſſioners in their reſpective towns, at leaſt once in every three months, and oftener if neceſſary, on the third days of the different county courts, and on failure thereof, (without a reaſonable cauſe) ſhall forfeit the ſum of one dollar to the commiſſioners for the uſe of ſaid town, to be recovered before any juſtice of the peace for the county in which the forfeiture may accrue, by a warrant in the name of the chairman of the commiſſioners of the town.

2. *Be it enacted*, That the preſiding member of all boards of commiſſioners of towns in this ſtate, ſhall in future be known and diſtinguiſhed by the name of chairman of the board over whom he preſides.

3. *Be it enacted* That each commiſſioner at their next meeting after the paſſing of this act, and before entering on the duties of their appointment, ſhall take the following oath. I A. B. do ſolemnly ſwear or affirm (as the caſe may be) that I will well and truly diſcharge the duties enjoined on me by law as commiſſioner of the town of   to the beſt of my ſkill and judgment. So help me God. *Provided always*, that any commiſſioner of any town, may reſign his appointment to the board when he thinks proper.

CHAP. VIII.

An act, to repeal the ſecond ſection of an act, reſpecting dollars and cents and contracts, and the manner of keeping accounts, ſo far as reſpects the currency in which contracts ſhall be made and accounts kept.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That the ſecond ſection of the before recited act, paſſed the fifth of January, in the year of our Lord one thouſand ſeven hundred and ninety-nine, be, and the ſame is hereby repealed; any thing to the contrary notwithſtanding.

CHAP. XI.

An act to enable perſons having a right or title to land, and not in actual poſſeſſion thereof, to transfer their intereſt.

WHEREAS it has lately been adjudged in this ſtate, that perſons having a right or title to land in the poſſeſſion of another, cannot convey ſuch an intereſt therein as to enable the grantee to recover the poſſeſſion thereof, in an action of ejectment. For remedy whereof:

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That from and after the paſſing of this act, it ſhall and may be lawful for any perſon or perſons having a right or title to land, although he, ſhe or they may be out of poſſeſſion, and notwithſtanding there may be an adverſe poſſeſſion, to ſell, and convey, and transfer his, her, or their intereſt, in and to the ſame, in as full and ample a manner as if he, ſhe or they had been in actual poſſeſſion of the land intended to be conveyed, and the grantee or grantees ſhall have the ſame right of action to recover the poſſeſſion thereof, that the grantor or grantors had at the time of executing the conveyance.

2. *Be it enacted*, That in all caſes of actions hereafter to be brought in any of the courts of this ſtate, it ſhall and may be lawful for the grantee or grantees claiming an intereſt under a conveyance for land heretofore made, although the grantor or

grantors were out of poſſeſſion, and notwithſtanding there was an adverſe poſſeſſion at the time the conveyance was executed, to derive the ſame benefit and advantage therefrom, as if the grantor or grantors had been in actual poſſeſſion at the time of executing the conveyance; any law, uſage or cuſtom to the contrary notwithſtanding.

4. *Be it enacted*, That all laws and parts of laws coming within the purview and meaning of this act, be, and the ſame is hereby repealed.

CHAP. XVI.

An act giving further time for proving and regiſtering grants and deeds, and for regulating conveyances.

2. *Be it enacted*, That from and after the paſſing hereof, all deeds and meſne conveyances for the abſolute transfer of any eſtate in lands, tenements or hereditaments, or for the ſettlement of lands, tenements or hereditaments, or the ſettlement of ſlaves or other perſonal property in conſideration of marriage; and all mortgages and deeds of truſt whatſoever, which ſhall hereafter be made and executed, ſhall be void as to creditors and ſubſequent purchaſers, unleſs the execution of the ſame ſhall be acknowledged by the grantor or bargainor, or proved by two credible witneſſes at leaſt, and regiſtered in the county where the land lies, or in caſe of ſlaves or perſonal property, where the grantor or bargainor reſides, within nine months from the time of executing ſuch deed, meſne conveyance, mortgage or deed of truſt.

4. *Be it enacted*, That powers of attorney authoriſing the conveyance of land, may, on being proved in the manner in which deeds and other conveyances of land are by law required to be proved, be regiſtered in the regiſter's office, of the county in which the land authoriſed to be conveyed ſhall lie. And atteſted copies of ſuch powers of attorney ſhall be legal evidence in the ſame manner as copies of deeds and other conveyances of land, by law required to be regiſtered.

5. *Be it enacted*, That the ſeveral regiſters of this ſtate ſhall, and they are hereby required to regiſter all powers of attorney delivered to them for that purpoſe, and proved as hereinbefore-mentioned, on receiving from the perſon requiring the ſame to be regiſtered, the ſum of fifty cents, and the like ſum for each copy by him given of any ſuch power of attorney.

CHAP. XX.

An act to exempt certain perſons from ſerving as Jurors.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee*, That from and after the paſſing of this act, all regular authoriſed miniſters of the goſpel of all profeſſions in this ſtate,

1805 ſhall be exempt from ſerving as jurors in any court within this ſtate.

2. *Be it enacted*, That all overſeers of public roads within this ſtate, being duly appointed according to law, ſhall be exempt from ſerving on any jury in the courts of pleas and quarter ſeſſions within this ſtate during the time they hold ſuch appointment; any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. XXI.

An act to compel defendants againſt whom actions are brought for the recovery of the penalty for the breach of penal ſtatutes, to give bail as in other caſes.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the paſſing of this act, in all caſes where a quitam action or actions are to recover the penalty for the breach of any penal ſtatute, the perſon or perſons againſt whom ſuch action is brought, ſhall be held to bail as in other caſes of arreſt on civil proceſs; any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. XXIV.

An act to repeal a part of the ſixtieth ſection of an act entitled, "An act to regulate the proceedings of the courts of Equity," and for amending of the law paſſed at Knoxville, the ſecond day of November, in the year one thouſand eight hundred and one.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That ſo much of the ſixtieth ſection of the recited act as authoriſes the verdict of a jury and judgment of the court thereon to be pleaded in bar to any ejectment brought afterwards by the ſame party, or any perſon claiming under him, her or them, on the ſame title, be, and the ſame is hereby repealed and made void.

CHAP. XXXI.

An act to prevent ſheriffs, coroners and conſtables from bidding or purchaſing at their own ſales.

WHEREAS it appears to this General Aſſembly, that ſheriffs, coroners and conſtables if permitted to bid or purchaſe at their own ſales, may often prove injurious and oppreſſive to debtors and ſecurities. For remedy whereof:

Be it enacted by the General Aſſembly of the State of Tenneſſee, That if any ſheriff, coroner, or conſtable, from and after the firſt day of January next, ſhall bid or purchaſe at their own ſales, either by themſelves or any other perſon or perſons for them or their benefit all ſuch ſales or purchaſes ſhall be void and all perſons concerned in any ſuch ſales ſhall be liable to an indictment for a miſdemeanor by the party injured; any thing to the contrary notwithſtanding.

CHAP. XXXII.

An act to amend an act, entitled, "An act to regulate the deſcent of real eſtates, to do away entails, to make proviſion for widows, and to prevent frauds in the execution of laſt wills and teſtaments."

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the paſſing of this act, it ſhall be lawful when any county line ſhall run through any lands where any dower is to be laid off, in that caſe the ſame jury ſummoned by the ſheriff of the county where the ſaid petition ſhall be filed, may proceed to lay off the ſaid dower in the ſame manner as if there was no diviſion by any county line through ſaid tract of land; any law to the contrary notwithſtanding.

CHAP. XXXVII.

An act to authoriſe the ſheriffs of the different counties within this ſtate, to take recognizances in certain caſes.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the paſſing of this act, it ſhall be the duty of the different ſheriffs within this ſtate, when they execute any capias on an indictment, to take a recognizance for the appearance of the party, in the ſame manner that juſtices of the peace are now bound to do by law; any law to the contrary notwithſtanding.

CHAP. XXXVIII.

An act concerning Merchants, Pedlars, &c.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That the firſt and ſecond ſections of an act, entitled, "An act to declare what ſpecies of merchandize or manufactures, may be ſold by retail or otherwiſe, without ſubjecting the ſeller to the penalties ſet forth in act, entitled, "an act aſcertaining what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for, and paying public taxes," &c. paſſed the fourth day of Auguſt, one thouſand eight hundred and four, be and the ſame is hereby repealed; and that ſuch parts of the act, thereby intended to be explained, remain in full force and effect: *Provided,* That nothing therein contained ſhall be ſo conſtrued as to prevent any perſon from vending any article the growth and manufacture of this ſtate; or to retail the articles of iron, ſalt, lead, ſteal and caſtings, whether manufactured within or without the limits of this ſtate.

And whereas, it is repreſented to this general aſſembly, that ſundry merchants have miſconſtrued the before-recited act, whereby they have failed to apply for licence and pay the taxes agreeably to the true intent and meaning thereof. Wherefore :

2. *Be it enacted*, That each merchant, pedlar, and hawker in this ſtate, who have not paid his or their tax agreeably to the fourth and fifth ſections of an act, entitled, " an act to aſcertain what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for, and paying public taxes," paſſed November ſeventh, one thouſand eight hundred and three, ſhall have the further time of two months allowed them to pay the ſame to the clerks of their reſpective courts, whoſe duty it ſhall be to receive and account for the ſame, in like manner as heretofore preſcribed by law ; and if the ſaid merchants, or any of them, ſhould fail to pay the ſaid taxes, it ſhall be the duty of the different clerks to enforce the penalties of the before recited act.

3. *Be it enacted*, That it ſhall be the duty of the clerks of the ſeveral counties within this ſtate, to report to their reſpective courts ſuch perſons within their knowledge, as have failed to comply with the requiſitions herein alluded to : Whereupon, the court ſhall enter up judgment againſt ſuch merchant, pedlar, or hawker, for the penalties thereby incurred.

4. *Be it enacted*, That it ſhall hereafter be the duty of every perſon, whether a citizen or foreigner, who ſhall bring into this ſtate any ſtud horſe for covering of mares, after the firſt day of January in each and every year, to report ſuch horſe to the clerk of the county wherein he ſhall ſtand, who ſhall iſſue a licence to ſuch applicant, granting to him the privilege of advertiſing and letting ſuch horſe to mares for one ſeaſon and no longer : *Provided*, before ſuch licence ſhall iſſue, the applicant ſhall pay to the clerk a ſum equal to the ſeaſon of one mare, and the additional ſum of fifty cents as fees of office, which money ſo received for the ſtate, ſhall be accounted for by each clerk in the ſame manner and form as he accounts for other public monies.

5. *Be it enacted*, That any perſon failing to comply with the requiſitions of this act, ſhall forfeit and pay the ſum of fifty dollars, to be recovered by action of debt before any juriſdiction having cognizance thereof, one half to the uſe of the ſtate and the other half to the uſe of the perſon who will ſue for the ſame ; and any perſon impoſing on the clerk a leſs ſum for the uſe of the ſtate than that which he may receive for the ſeaſon of one mare, ſhall forfeit and pay the ſum of fifty dollars, to be recovered as aforeſaid.

6. *Be it enacted*, That any perſon keeping a horſe for the purpoſe of covering mares, although ſaid horſe may not have been returned, ſhall nevertheleſs be liable to pay the tax preſcribed by law, under the penalties herein mentioned ; and ſhould any ſtud horſe be removed from one county to another for the purpoſe of covering mares, the perſon in whoſe poſſeſſion ſaid horſe may be, ſhall be liable to pay the tax, unleſs ſuch perſon ſhall, within ten days after ſuch horſe ſhall be brought into ſuch county, produce a certificate from the clerk of the county where the owner of ſaid horſe reſided on the firſt

day of January, that ſaid horſe has been given in as taxable property within this ſtate.

7. *Be it enacted*, That the tax upon billiard tables, ſhall be and remain a lien upon the plantation, tract of land, or lot of ground whereon ſuch table is kept, in caſe the owner of the land give a permit for keeping ſuch table; any law to the contrary notwithſtanding.

8. *Be it enacted*, That if a tenant in poſſeſſion, or other perſon, ſhall ſet up a billiard table upon the plantation, tract of land, or lot of another, he, ſhe, or they ſo offending, ſhall be ſubject to nine months impriſonment without bail or mainprize, for every ſuch offence, and ſhall ſtand committed until he, ſhe, or they ſhall ſatisfy and pay all coſts and charges that may accrue, unleſs the offender or offenders ſhall produce a written permit from the owner of ſuch plantation, tract of land, or lot, granting ſuch perſon or perſons liberty to ſet up a billiard table thereon.

9. *Be it enacted*, That this act ſhall not take effect as to billiard tables and ſtud horſes, until the firſt day of December next.

CHAP. XXXIX.

An act to authoriſe actions of ejectment and treſpaſs ſouth of French Broad and Holſton.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That from and after the paſſing of this act, actions of ejectment may be brought and maintained for the recovery of lands lying ſouth of the rivers French Broad and Holſton, and between the rivers Big Pigeon and Tenneſſee, held or claimed, by, or under improvement right, or right of occupancy, in the ſame manner, and under the ſame rules, regulations and reſtrictions, that actions of ejectment heretofore have been brought and maintained, or that may hereafter be brought and maintained for lands lying elſewhere within this ſtate, held by or under patent, grant, or other legal title, which improvement ſhall be ſuch as was required by the laws of the ſtate of North Carolina, regulating improvements, and the manner of laying off the lands held by ſuch improvement right, or right of occupancy, ſhall be agreeable to the ſeveral conditional lines of the reſpective occupants, where the conditional lines of ſuch occupancy hath been made; and where conditional lines of any improvement or occupant claim hath not been made, the laying off ſhall be the ſame as were heretofore recognized by the laws of the ſtate of North Carolina, before, and at the time of paſſing the ceſſion act of ſaid ſtate; and ſuch improvement right, or right of occupancy, may conſiſt of ſix hundred and forty acres, and no more: *Provided*, That when the right of occupancy hath been withheld by adverſe poſſeſſion by force, the laws of limitation ſhall be no bar as to the time ſo withheld: *Provided alſo*, That where any perſon has made an improvement and deſerted the ſame, or abſented himſelf from the county, or made no ſettlement, nor renewal

or continuance of claim and improvement, for the term of two years, ſuch perſon ſhall not be authoriſed to recover by virtue of any thing contained in this act: *And provided alſo*, That when any perſon hath ſold or conveyed any part of his, her or their original improvement right, or right of occupancy to any other, ſuch perſon ſo ſelling or conveying, ſhall not be authoriſed to hold or claim any other land in lieu thereof, or to extend his, her or their claim otherwiſe than what it was, or would have been in caſe no ſuch ſale or conveyance had been made.

2. *Be it enacted*, That actions of treſpaſs on the caſe may be brought and maintained for the meſne profits on a recovery had in ſuch ejectment: And alſo actions of treſpaſs for any injury done to the land held by ſuch improvement or occupancy, within the lines of any ſuch improvement, while in the poſſeſſion of the rightful occupant.

CHAP. XLI.

An act to regulate the election of ſheriffs in certain caſes.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That it ſhall not be lawful for the juſtices of any county court in this ſtate, to re-elect any perſon as a ſheriff, unleſs ſuch ſheriff ſhall produce ſufficient vouchers, that he hath accounted for and paid all ſtate and county taxes that before the time of ſuch election he may have been bound by law to account for and pay; any law heretofore to the contrary notwithſtanding.

CHAP. XLII.

An act to amend the law now in force giving a right of action to any perſon for the value of their improvements, where recoveries are had in actions of ejectment.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That any perſon in poſſeſſion of any land under patent, grant, or lawful entry, and ſhall at any time be diſpoſſeſſed by due courſe of law, or otherwiſe put out of poſſeſſion, without his, her, or their conſent firſt had and obtained; in that caſe the perſon ſo diſpoſſeſſed, ſhall be entitled to recover from the perſon to whoſe uſe the diſpoſſeſſion was ſo made, the value of the improvements which he, ſhe, or they may have made on ſaid land: and the ſaid land ſhall be and remain a fund for the payment of the judgment and coſt that may be recovered in any action to be brought for the value of ſuch improvements ſo made thereon; and ſaid land ſhall always be bound for the payment of ſuch judgment and coſt, notwithſtanding it may be conveyed to ſome other perſon by him, her or them, who made ſaid recovery as aforeſaid.

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CHAP. XLIV.

An act to authoriſe the governor for the time being to offer a reaſonable reward for the apprehending of any perſon or perſons who may have committed any flagitious crime.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing of this act, the governor for the time being, may, and he is hereby authoriſed, by proclamation to offer a reward not exceeding one hundred dollars, for the apprehending of any perſon or perſons who now have, or hereafter ſhall commit any flagitious offence againſt the laws of the ſtate, when he ſhall think the public good requires it.

2. *Be it enacted,* That the ſaid governor ſhall be at liberty to draw a warrant on either of the public treaſurers for the amount of the reward ſo offered, in favor of any perſon or perſons who may in his opinion entitle themſelves to the ſame, and it ſhall be the duty of the treaſurers to pay the ſame, which warrant ſhall be good in the ſettlement of their accounts: *Provided always,* That no perſon ſhall be entitled to the reward offered by any proclamation, until ſuch offender or offenders are delivered to the civil authority and confined in jail or admitted to bail.

CHAP. XLV.

An act authoriſing verdicts heretofore rendered in the ſeveral county courts of this ſtate, to be given in evidence.

WHEREAS heretofore verdicts have been rendered in many of the courts of pleas and quarter ſeſſions, and judgments have been neglected to be formerly entered thereon, notwithſtanding which, the ſame verdicts have had their effect as to recoveries, as fully as if judgments had been formerly entered thereon; and to the end, that all ſuch verdicts ſhould have the full effect for which they were made of record. Wherefore:

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That all verdicts heretofore rendered in any of the courts in this ſtate, and recoveries had thereon, and where it appears that ſuch verdicts have been acquieſced in by the parties, notwithſtanding the clerk may have neglected to enter the judgment of the court formerly thereon, that a copy of ſuch verdict or verdicts, certified by the clerk, ſhall be admitted as evidence in any court in as full and ample a manner to all intents and purpoſes as though the judgment of the court had been entered up at the time it ought to have been done; any law to the contrary notwithſtanding.

2. *Be it enacted,* That in all caſes hereafter, it ſhall be the expreſs duty of each and every clerk, to enter up judgment of the court on their records after the verdict of the jury.

C H A P. XLVIII.

An act to compel the public printers of this ſtate to give bond and ſecurity for the performance of their contract for the ſtate printing.

3. *Be it enacted*, That in caſe of the diſcontinuance of the preſs of the ſaid printer or printers by death or otherwiſe, the governor for the time being, is hereby authoriſed to appoint a printer or printers, who ſhall enter into bond and ſecurity ſuch as the ſaid governor ſhall approve of, in the like ſum, with the like condition, and liable to the ſame penalties that are provided for in the foregoing part of this act, which ſaid printer ſhall be deemed the public printer.

4. *Be it enacted*, That if the ſaid ſtate printer or printers, ſhall fail to perform their ſaid contract, it ſhall be the duty of the governor for the time being, to withhold the payment of the half part of the amount of the ſum that ſhall be due to the ſaid printer or printers on the contract; and the ſaid printer or printers ſhall not be authoriſed to obtain any draft on the treaſury for more than one half of the ſum they may be entitled to, until they have finally completed their contract according to the true intent and meaning thereof.

C H A P. XLIX.

An act to amend the law relative to coſts on criminal proſecutions.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That in caſe any perſon who may have been, or hereafter ſhall be convicted on an indictment for a capital, or other offence, judgment may be rendered and execution may iſſue againſt the eſtate of ſuch defendant, as in other caſes of fieri facias, for the fine, where a fine is adjudged, and all coſts then due and incident thereto, and for any coſts that may accrue after the time of ſuch conviction, by impriſonment or carrying the judgment or ſentence into effect; the court before whom ſuch conviction may have been had, may at any ſubſequent term, on motion render judgment and award execution againſt the eſtate of ſuch defendant as aforeſaid; and when it ſhall in ſuch caſes appear to the court that the defendant at the time of ſuch conviction, or of executing the ſentence of court, hath or had no eſtate either real or perſonal, whereof ſuch coſts could be made, then it ſhall be lawful for ſuch court, by an order on record, to direct the clerk to iſſue a certificate or certificates to the lawful claimant or claimants for all priſon fees, and fees for executing ſuch judgment or ſentence, which certificate or certificates ſhall be receivable by either of the treaſurers of the ſtate, where the proſecution has been in the ſuperior court, and ſhall be good in the ſettlement of his accounts; and likewiſe by the truſtee of the county, where the proſecution has been in the county court.

CHAP. L.

An act to amend the law now in force for ſelling under execution.

2. *Be it enacted*, That for each publication the printers ſhall be entitled to receive thirty-ſeven and one half cents for each and every tract or parcel of land ſo reported and advertiſed, to be paid out of the proceeds of the ſales of ſaid lands, or ſatisfied by the owners thereof.

3. *Be it enacted*, That no lands on which the tax may remain due and unpaid, ſhall be ſold for leſs than the amount thereof.

4. *Be it enacted*, That in all caſes where any lands ſhall be ſold as directed by this act, the owner of the ſame, his heirs, executors or adminiſtrators, ſhall have liberty to redeem the ſame at any time within twelve months from the day of ſale, upon payment, or tender of payment, to the ſheriff or collector for the time being, for the uſe of the purchaſer, his heirs or aſſigns, of the amount of ſaid taxes, coſts and charges, with intereſt for the ſame, at the rate of fifty per cent. per annum, together with the amount of taxes that may accrue on the land ſo to be redeemed, & upon payment or tender of payment as aforeſaid, ſuch ſale ſhall be void, and no deed ſhall be given in purſuance of any ſuch ſale, until the time of redemption ſhall have expired.

5. *Be it enacted*, That forty days notice ſhall be ſufficient in all ſheriffs ſales hereafter to be made, and which by law are required to be publiſhed in the Gazette; and ſo much of an act paſſed October the twenty-ſixth, one thouſand ſeven hundred and ninety-nine, as required ſixty days notice, as well as all laws and parts of laws coming within the meaning of this act, are hereby repealed.

CHAP. LIV.

An act making compenſation to Moſes Fiſk, for ſervices by him performed in reviſing and compiling the laws of this State, &c. agreeably to an act of this general aſſembly, paſt November the third, one thouſand eight hundred and three for that purpoſe, and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the ſum of three hundred dollars be allowed Moſes Fiſk, as full compenſation for ſervices by him performed, and expences incurred in reviſing and compiling the laws of this ſtate, &c. as directed by the above recited act, to be drawn from either of the treaſuries of this ſtate, on a warrant ſigned by the governor.

2. *Be it enacted*, That the ſaid Moſes Fiſk ſhall have leave to withdraw ſaid compilation for the purpoſe of completing the ſame, according to the above recited act, and by him to be laid before the general aſſembly of this ſtate at their next ſeſſion,

ſubject to their reviſion, or any regulation that the legiſlature may make relative thereto.

3. *Be it enacted*, That the Governor be, and he is hereby authoriſed to iſſue to George Wilſon, a warrant on either of the public treaſuries of this ſtate, for the ſum of fifty-ſeven dollars, as full compenſation for printing heretofore done for the uſe of the ſtate; and that the ſum of fifty dollars be allowed each of the public treaſurers for ſervices by them performed, which ſhall be allowed them in the ſettlement of their accounts.

CHAP. LVIII.

An act to prevent the obſtruction of the navigation of Smith's Fork, of Caney Fork of Cumberland River.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the navigation of Smith's fork, of Caney fork, of Cumberland river, from the mouth thereof to Stump's mills, ſhall remain open and free.

2. *Be it enacted,* That if any perſon or perſons have heretofore erected, or ſhall hereafter erect any fiſh dams or hedges on ſaid creek, they ſhall remove all ſuch obſtructions; and the ſaid creek is hereby declared a public highway.

3. *Be it enacted,* That any perſon or perſons who ſhall fail to comply with the above, ſhall forfeit and pay for every ſuch offence twenty-five dollars, for every twenty-four hours ſuch obſtruction may remain, recoverable before any juriſdiction having cognizance thereof, one half to the perſon ſuing for the ſame, and the other half to the county of Smith.

CHAP. LIX.

An act directing the mode of reporting lands and other property, which have not been given in agreeable to law.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That it ſhall be the duty of the ſeveral juſtices of the peace, who hereafter may be appointed to take in the taxable property in the different diſtricts or captains companies in which they may reſpectively reſide, after they have made out a liſt of all the taxable property which may have been returned to them; to make diligent enquiry, and uſe all means that may be in their power to gain information of any land or other property within their reſpective diſtricts or captains company, which now is, or hereafter may be declared taxable, that may not have been returned to them as is required by law; and if any juſtice upon ſuch enquiry, finds that there is any land or other property, which may not have been returned to him as heretofore contemplated by law; then and in that caſe, it ſhall be his duty if it be land, to aſcertain as nearly as poſſible, from his own knowledge or good information the number

of acres that the ſame may contain, & to whom it is ſuppoſed or known to belong; if other property, he ſhall aſcertain of what ſpecies the ſame may be, and enter the ſaid land and property on his ſaid liſt of taxable property, and return the ſame to the clerk of their reſpective counties.

2. *Be it enacted*, That ſaid clerks, upon receiving all the liſts of taxable property within their reſpective counties, ſhall carefully examine ſaid liſts, and if they, upon ſuch examination, find that any land or other property as aforeſaid, may have been returned by more than one juſtice in the ſame year, they ſhall, in making out a copy of ſaid liſts to give to the ſheriff for collection, make a particular note of ſuch land or other property as may ſo appear to be twice returned, or returned by two or three ſeveral juſtices in the ſame year.

3. *Be it enacted*, That it ſhall be the duty of the reſpective ſheriffs, on receiving ſuch liſts, upon which any ſuch notes may be made, to aſcertain in which of the ſaid juſtices diſtricts or captain's company, the ſaid land or other property may truly lie or be, (to the end that the ſaid land or property may not be twice taxed in the ſame year, as the property of the ſame perſon) and proceed thereupon to collect the tax which may be due upon the ſame, in the ſame manner as heretofore directed by law.

CHAP. LX.

An act to repeal an act, entitled, "An act for the better ſecurity of the trial by jury in the ſuperior courts."

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That an act, entitled, "An act for the better ſecurity of the trial by jury in the ſuperior courts," paſſed November the firſt, one thouſand eight hundred and three, be, and the ſame is hereby repealed and made void, and the law which heretofore governed in that caſe, be, and the ſame is hereby revived, and ſhall be in full force and virtue; any thing to the contrary notwithſtanding: *Provided*, That the ſeveral county courts ſhall not appoint any perſon as a juror to any of the ſuperior courts of this ſtate, that has a cauſe depending in ſaid court he is appointed to attend: *Provided alſo*, That either party may peremptorily challenge two jurors in any cauſe to be tried in any of the courts aforeſaid.

2. *Be it enacted*, That the ſecond, third, fourth and ſixth ſections of an act paſſed at Knoxville, November the fifth, one thouſand eight hundred and three, entitled, "an act, ſupplementary to an act, entitled, an act, to amend an act eſtabliſhing courts of law, and for regulating proceedings therein," ſo far as reſpects the county courts, be, and the ſame are hereby repealed, and the law heretofore in force and uſe, the ſame is hereby revived and ſhall be in full force; any thing to the contrary notwithſtanding.

CHAP. LXI.

An act to altar the fees of Regiſters and Rangers, and for other purpoſes.

1. *Be it enacted by the General Assembly of the State of Tennessee,* That from and after the firſt day of Auguſt next, each regiſter ſhall be entitled to receive as a compenſation for his ſervices—For each deed of conveyance or grant, where but one tract of land is conveyed, or but one warrant contained in a grant, ſixty-two and one half cents; for regiſtering each certificate and order of regiſtration, twelve and one half cents; for ſuch certificate, ſix and one fourth cents; for each tract of land contained in the ſame deed more than one, twenty five cents; for each warrant contained in a grant where there is more than one, twelve and one half cents; for each ſearch of the regiſter's books, twelve and one half cents; for a copy of each deed, ſixty two and one half cents; for a copy of each grant, ſixty two and one half cents; for certificate of the ſame, twelve and one half cents; for all other inſtruments, fifty cents; for a certificate thereof, twelve and one half cents. And each ranger may receive the following fees, for the following ſervices—For each horſe, mare, gelding or colt, entered with him as a ſtray, ſixty-two and one half cents; for each head of cattle, thirty-ſeven and one half cents; for each ſheep or hog, twelve and one half cents; for each ſearch, twelve and one half cents.

2. *Be it enacted,* That if any perſon or perſons have obtained, or may hereafter obtain ſeveral deeds or other conveyances, to one and the ſame tract or parcel of land, by compromiſe with an adverſe claimant or otherwiſe, ſuch perſon or perſons after having paid the public tax on the regiſtration on any one of ſaid deeds or conveyances, ſhall be entitled, from and after the paſſing of this act, to have the other or others regiſtered without being obliged to pay any public tax thereon, by firſt paying the legal fees of office to the regiſter; any law to the contrary notwithſtanding.

3. *Be it enacted,* That in future it ſhall and may be lawful for the rangers in the ſeveral counties in this ſtate, to adminiſter oaths to any perſons who may wiſh to prove their property taken up and entered as a ſtray or ſtrays, and the ſame ſhall be as valid in law, as if proven before any juſtice of the peace.

4. *Be it enacted,* That the ſixth ſection of an act, entitled, "an act to prevent abuſes in taking up ſtray horſes, ſheep and hogs," paſſed the twenty-ſixth day of October, one thouſand ſeven hundred and ninety-nine, be, and the ſame is hereby repealed; and in future the taker up of any ſtrays ſhall not be compelled to pay the county truſtee more than one half the appraiſed value thereof.

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CHAP. LXII.

An act for the better regulation of Regiſter's Offices, &c.

WHEREAS conſiderable loſs is likely to be ſuſtained by many of the citizens of this ſtate, by reaſon of the looſe and irregular manner in which many of the Regiſter's offices have heretofore been kept. For remedy whereof:

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That it ſhall be the duty of the regiſters of the different counties in this ſtate, at the firſt court held at their reſpective counties, after the firſt day of January next, or any ſucceeding term, to lay before the court of ſaid county or three of their body appointed for that purpoſe, all the records of their office, for the purpoſe of examination.

2. *Be it enacted,* That if ſaid courts upon examination of ſaid records, find that they have not been kept as contemplated by this act, in a well bound book or books, and wrote in a fair legible hand writing, they ſhall, if they deem it expedient, immediately proceed to ſelect from among ſaid records ſuch books thereof, as may appear to be in ſuch looſe and irregular ſituation, and appoint the regiſter or ſome other perſon, for the purpoſe of tranſcribing the ſame, who ſhall, previous to his commencing ſaid tranſcript, take the following oath before ſome juſtice of the peace of his county, to wit:

I, A. B. do ſwear, that I will well and truly tranſcribe all the books that have been delivered to me for that purpoſe, by the court of the county of as the records, or part of the records, as the caſe may be, of the regiſters office of ſaid county, without any alteration or deviation from the ſaid original records, to the beſt of my ability and underſtanding. So help me God.

3. *Be it enacted,* That it ſhall be the duty of the ſaid tranſcriber immediately upon taking the above oath, to proceed to copy or take a fair and legible tranſcript of ſaid records in a book or books to be procured by the ſaid court for that purpoſe, leaving a margin in the ſame, for the purpoſe of inſerting therein the page that the different inſtruments may have been recorded in, in the original books, to the end, that no variation may appear between the pages of the tranſcript ſo taken, and thoſe that may have been entered in the certificates on the different inſtruments regiſtered in the original books aforeſaid.

4. *Be it enacted,* That it ſhall be the further duty of ſaid tranſcriber in taking ſaid tranſcript, to pay particular attention to the dates of the regiſtration of every inſtrument in ſaid original books, and tranſcribe them in order thereby; and when he may fill a book in tranſcribing as aforeſaid, he ſhall make a fair and legible alphabetical liſt of all the inſtruments contained in ſaid book, from whom, and to whom granted or conveyed.

5. *Be it enacted,* That when ſaid tranſcriber finiſhes ſaid tranſcript, and after the ſame may be collated with the origi

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nals by the ſaid tranſcriber, and one other ſuitable perſon to be appointed by the court for that purpoſe, who ſhall be upon oath, and ſhall receive the ſum of one dollar and fifty cents for each day he may be neceſſarily engaged therein, to be paid out of the funds of the county ; he ſhall depoſit the ſame in the regiſter's office of his county, and a copy of any inſtrument taken from ſaid tranſcript and certified by the regiſter, ſhall be received as evidence in any court of law, or equity in this ſtate in as full and ample a manner, as a copy from the original books, might or could have been, and the original records, from which the ſaid tranſcript may have been ſo taken as aforeſaid, ſhall be depoſited in the clerk's office of the county ; and in caſe any perſon ſhould not be ſatisfied with the tranſcript, and wiſh to have acceſs to the original, the clerks are hereby authoriſed to grant ſuch perſon a tranſcript, after demanding and receiving therefor, the ſum of fifty cents to be paid by the party applying.

6, *Be it enacted,* That the different county courts in this ſtate, ſhall allow the perſon by them reſpectively employed for the purpoſes contemplated by this act, a reaſonable compenſation for his ſervices, to be paid by the truſtee of the county upon a certificate ſigned by the chairman of the court, out of any money not otherwiſe appropriated.

7, *Be it enacted,* That for the future, the regiſters of the different counties are hereby authoriſed to call on their reſpective courts, and demand of them a well-bound book or books, for the purpoſe of regiſtering therein ſuch inſtruments of writing as may be by law require to be regiſtered, wherein ſhall be entered by ſuch regiſter, all ſuch inſtruments in a fair legible hand writing, and in ſaid book or books ſhall be a margin for the purpoſes of inſerting the name of the grantee, claimant, or ſuch perſon as any ſuch inſtrument may be given to, as well as the name of the grantor, or perſon giving ſuch deed or other inſtrument, together with the name of any creek or particular place where any lands therein mentioned may lie ; and it ſhall be the duty of the court upon ſuch application, to procure ſuch a book or books, the price of which ſhall be diſcharged by the truſtee of the county upon a certificate ſigned by the chairman of the court of his county, out of any county money in his hands.

8. *Be it enacted,* That in any caſe when it may be found upon examination, the tranſcript aforeſaid varies in any manner in wording from the original records, ſo as to alter the meaning and ſubſtance thereof, in any deed or title which may be in litigation, a copy of the original record certified by the clerk of the county, ſhall be admitted as evidence, and in no other caſe whatever ; any law to the contrary notwithſtanding.

9, *Be it enacted,* That from and after the firſt day of Auguſt next, it ſhall be the duty of the clerks of the different counties in this ſtate, to receive the tax due to the ſtate, on any deeds and meſne coveyances ; and it ſhall be the duty of any perſon wiſhing a deed or grant, that has been proven before a judge and admitted to record, to be regiſtered before he offers the ſame to the regiſter, to pay the tax to the clerk of the county, who ſhall indorſe a receipt on the ſame; and no regiſter ſhall be at liberty to regiſter any deed, acknowledged before a judge, or regiſter any grant unleſs a receipt is indorſed; and it ſhall be the duty of the clerks to account with the public treaſurer for the amount of all money received, ſo as aforeſaid, in the ſame manner as other public taxes are accounted for; and if any perſon ſhall forge a receipt as aforeſaid, for every ſuch offence, ſhall be liable to be indicted for forgery.

10. *Be it enacted*, That ſo much of the law heretofore in force, as authoriſes and requires regiſters to collect the tax on grants and deeds, is hereby repealed.

CHAP. LXIII.

An act ſupplementary to an act for the regulation of Regiſter's offices, &c. paſſed the preſent ſeſſion of the general aſſembly.

Be it enacted by the General Aſsembly of the State of Tenneſsee, That when any county court in this ſtate, ſhall deem it expedient to proceed to have any of the records of the regiſters offices of their reſpective counties tranſcribed as contemplated by the aforeſaid act, it ſhall and may be lawful for the ſaid court to lay an additional county tax in their reſpective counties for that expreſs purpoſe, not to exceed one half of the amount of the general county tax on the different ſpecies of property ſubject to county taxation; any law to the contrary notwithſtanding.

CHAP. LXIV.

An act to fix the number of Senators from the ſtate, into election diſtricts, and determine the portion to be allotted to each, as well as to fix the number of Repreſentatives for the ſeveral counties in the ſtate, in purſuance of the proviſions of the conſtitution.

WHEREAS the returns of the enumeration that have been made to the ſecretary's office from the ſeveral counties in this ſtate, have not been in conformity with an act, entitled, " an act to provide for taking the enumeration of free taxable inhabitants," paſſed at Knoxville, the fourth day of Auguſt, Anno Domini, one thouſand eight hundred and four. For remedy whereof;

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee*, That for the ſecond ſeptennial term of the apportionment of the repreſentation of this ſtate in the legiſlature thereof, according to the eſſential proviſions of the conſtitution, the ſenators ſhall be allotted and apportioned amongſt the ſeveral election diſtricts; and the repreſentatives ſhall be al-

lotted and diſtributed amongſt the ſeveral counties in the ſtate, according to the number of free taxable inhabitants which they have reſpectively returned on the tax liſts for the year Anno Domini, one thouſand eight hundred and four, as nearly as may be, conſiſtently with expedience and juſtice.

2. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That until the next enumeration of free taxable inhabitants, and an apportionment thereon ſhall be made, the ſenate ſhall conſiſt of thirteen ſenators. The counties of Waſhington and Carter ſhall compoſe a diſtrict, and elect one ſenator; the counties of Sullivan and Hawkins ſhall compoſe a diſtrict, and elect one ſenator; the county of Greene ſhall compoſe a diſtrict, and elect one ſenator; the counties of Grainger and Claiborne ſhall compoſe a diſtrict, and elect one ſenator; the counties of Jefferſon and Cocke ſhall compoſe a diſtrict and elect one ſenator; the counties of Sevier and Blount ſhall compoſe a diſtrict, and elect one ſenator; the county of Knox ſhall compoſe a diſtrict, and elect one ſenator; the counties of Anderſon and Roane ſhall compoſe a diſtrict, and elect one ſenator; the counties of Jackſon and Smith ſhall compoſe a diſtrict, and elect one ſenator; the counties of Sumner and Wilſon ſhall compoſe a diſtrict, and elect one ſenator; the counties of Robertſon, Dickſon, Montgomery and Stewart ſhall compoſe a diſtrict, and elect one ſenator; the counties of Williamſon and Rutherford ſhall compoſe a diſtrict, and elect one ſenator; and the county of Davidſon ſhall elect one ſenator.

3. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That in thoſe diſtricts which are compoſed of more than one county, the ſheriff or coroner, as the caſe may be, within each county compoſing an election diſtrict, after having counted out the votes in ſuch manner as is directed by law, ſhall meet on the Monday ſucceeding the election, at ſuch places as are hereinafter mentioned, within the diſtrict of which ſuch county is a part, to compare the votes received by them in each county; and the perſon or perſons voted for in all or either of the counties compoſing an election diſtrict, having the higheſt number of votes in ſuch diſtrict, ſhall be declared duly elected; and the ſaid ſheriffs or returning officers, ſhall make out and execute under their hands and ſeals, a true return for ſuch election diſtrict: The ſheriffs or returning officers compoſed of the diſtrict of the counties of Waſhington and Carter, ſhall meet at the court houſe in Joneſborough, for the purpoſe aforeſaid; the ſheriff or returning officer of the diſtrict compoſed of the counties of Sullivan and Hawkins, ſhall meet at Roſſville, for the purpoſe aforeſaid; the ſheriffs or returning officers of the diſtrict compoſed of the counties of Granger and Claiborne, ſhall meet at the court-houſe in the town of Rutledge, for the purpoſe aforeſaid; the ſheriffs or returning officers of the diſtrict compoſed of the counties of Jefferſon and Cocke, ſhall meet at the houſe of Parmenas Taylor, for the purpoſe aforeſaid; the ſheriffs or returning officers of the diſtrict compoſed of the counties of Sevier and Blount, ſhall meet at the houſe of Joſeph Vance, for the purpoſe aforeſaid; the ſheriffs or returning officers of the diſtrict

compoſed of the counties of Anderſon and Roane, ſhall meet at the court-houſe in Burrville, for the purpoſe aforeſaid ; the ſheriffs or returning officers of the diſtrict compoſed of the counties of Jackſon and Smith, ſhall meet at Fort-Blount, for the purpoſe aforeſaid ; the ſheriffs or returning officers for the diſtrict compoſed of the counties of Sumner and Wilſon, ſhall meet at the court-houſe in Gallatin, for the purpoſe aforeſaid ; the ſheriffs or returning officers of the diſtrict compoſed of the counties of Robertſon, Dickſon, Montgomery & Stewart, ſhall meet at the court houſe in the town of Clarkſville, for the purpoſe aforeſaid ; the ſheriffs or returning officers for the diſtrict compoſed of the counties of Williamſon and Rutherford, ſhall meet at the court houſe in the town of Franklin, for the purpoſe aforeſaid.

4. *Be it enacted*, That until the next enumeration of free taxable inhabitants, and an apportionment thereon ſhall be made, the houſe of repreſentatives ſhall conſiſt of twenty ſix members, to be proportionably diſtributed amongſt the ſeveral counties according to the number of free taxable inhabitants which they have reſpectively returned on the tax liſts for the year eighteen hundred and four : The county of Waſhington ſhall be entitled to elect one ; the county of Carter ſhall be entitled to elect one ; the county of Sullivan ſhall be entitled to elect one ; the county of Hawkins ſhall be entitled to elect one, and the counties of Sullivan and Hawkins ſhall be entitled to, and elect one additional repreſentative alternately, beginning with Hawkins ; the county of Greene ſhall be entitled to elect one , the county of Grainger ſhall be entitled to elect one ; the county of Claiborne ſhall be entitled to elect one ; the county of Jefferſon ſhall be entitled to elect one ; the county of Cocke ſhall be entitled to elect one ; the county of Sevier ſhall be entitled to elect one ; the county of Blount ſhall be entitled to elect one ; the county of Knox ſhall be entitled to elect two ; the counties of Anderſon and Roane ſhall be entitled to elect one ; the county of Jackſon ſhall be entitled to elect two ; the county of Smith ſhall be entitled to elect one ; the county of Sumner ſhall be entitled to elect two ; the county of Wilſon ſhall be entitled to elect one ; the county of Rutherford ſhall be entitled to elect one ; the county of Williamſon ſhall be entitled to elect one ; the county of Davidſon ſhall be entitled to elect one ; the counties of Robertſon and Dickſon ſhall be entitled to elect one ; the counties of Montgomery and Stewart ſhall be entitled to elect one. And where more than one county compoſe a diſtrict for the election of a repreſentative, the returning officers of ſuch counties, at the ſame time and place that ſuch returning officers meet for the purpoſe of comparing the votes for ſenators, ſhall alſo compare the votes for ſuch repreſentatives ; and the ſheriff or returning officer of the county firſt named in ſuch diſtrict, ſhall make the final return thereof according to law.

5. *Be it enacted*, That the ſenators and repreſentatives ſhall be choſen by the citizens of the ſeveral counties in this ſtate duly qualified, at ſuch time, in ſuch manner, and at ſuch

1805 places as are or may be preſcribed by the conſtitution and laws of this ſtate.

CHAP. LXVI.

An act to compel the juſtices of the peace in the different counties in this ſtate to keep all the judgments they render, in their poſſeſſion, and for the regulation of the appointment of Conſtables.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing of this act, it ſhall be the duty of the juſtices of the peace in the different counties in this ſtate, to keep all the judgments they render in civil caſes, in their poſſeſſion, unleſs there are appeals or certioraris granted, which will make it neceſſary for them to part with the poſſeſſion thereof, to obey the rules of law; and when they grant an execution, it ſhall be on a different piece of paper, and the warrant and judgment ſhall not accompany the ſame.

2. *Be it enacted,* That the courts of the different counties in this ſtate, ſhall not be at liberty to appoint more than one conſtable in each captain's company and one for the county town, which conſtables ſhall be perſons of good character.

3. *Be it enacted,* That if any conſtable ſhall go about the neighborhood in which he lives, or through the country, and endeavor to ſtir up the people to commence ſuits againſt each other, by telling falſehoods, or in any manner propagating reports that may have a tendency to inſtigate the good people to ſue and vex each other; every conſtable ſo offending, ſhall be liable to be indicted for every ſuch offence, for a miſdemeanor in office, and on conviction fined in a ſum not leſs than five nor more than fifty dollars.

4. *Be it enacted,* That any execution that ſhall hereafter be iſſued by a juſtice of the peace againſt the body or goods and chattels of any perſon, who may remove himſelf or goods and chattels to any other county in this ſtate before the ſame is ſatisfied, in every ſuch caſe it ſhall and may be lawful for the perſon or perſons having any ſuch judgment and execution to obtain the certificate of the clerk of the county, ſetting forth that the magiſtrate who granted the judgment and execution, was at the time an acting juſtice of the peace of his county, for which the clerk ſhall receive fifty cents, to be paid by the party applying for the ſame, and the fees ſhall be endorſed on the certificate; and on producing ſaid execution and certificate to any juſtice of the peace of the county to which any debtor may have removed himſelf or property, it ſhall be ſufficient to authoriſe any juſtice of the peace to iſſue an execution on the ſaid judgment, for the amount of the judgment and coſts, and the coſt of the clerk's certificate.

5. *Be it enacted,* That it ſhall not lawful for any juſtice of the peace to iſſue a warrant in any civil caſe, unleſs on the perſonal application of the perſon wiſhing it to be done, or by

his or her direction in writing; which direction the juſtice ſhall preſerve; and if any perſon ſhall forge an order for the iſſuing a warrant, he ſhall be liable to be indicted for a miſdemeanor, and fined in a ſum not leſs than five, nor more than fifty dollars.

6. *Be it enacted*, That where any juſtice of the peace hath iſſued an execution on a judgment, and the conſtable or other officer to whom it is directed, return the ſame not ſatisfied, then, and in that caſe, the juſtice ſhall, if requeſted, iſſue an alias or plurius writ for the ſame.

CHAP. LXXII.

An act directing the mode of aſcertaining the bounds of improvement and occupant claims ſouth of the rivers French Broad and Holſton, between the rivers Big Pigeon and Tenneſſee, and authoriſing the plats of ſuch improvement, when filed, to be evidence when the bounds of ſuch improvement may come in queſtion.

1. *Be it enacted by the General Assembly of the State of Tennessee*, That all holders of improvement claims or claims of occupancy or pre-emption ſouth of the rivers French Broad and Holſton, between the rivers Big Pigeon and Tenneſſee, ſhall be at liberty, and are herby authoriſed to ſurvey their reſpective claims and to aſcertain the bounds thereof according to their ſeveral conditional lines, if they think proper, and to cauſe a plat of ſuch ſurvey to be made, ſetting forth the courſes and diſtances of the lines of ſaid ſurvey, and the quantity of land contained therein, certified to be a juſt plat of the claim ſurveyed, on oath of the ſurveyor making the ſame; which plats may be by the holder of ſuch claim filed in the regiſter's office of the county where ſuch claims may lie, and when filed, a copy thereof ſhall be evidence of the lines and bounds of the claim to which it relates, in all caſes where the bounds of ſaid claim may come in queſtion, but ſhall not bar any other perſon or perſons having a right to ſuch claim, or any part thereof: *Provided*, That before any perſon ſhall proceed to ſurvey his or their claim under the authority of this act, he or they ſhall give notice in writing, to all thoſe who hold claims adjoining, of the time he or they intend to ſurvey, if ſuch claimants live within the bounds of the county, and if they are not known, or live out of the county where ſuch claim lies, it ſhall be the duty of the perſon about to proceed to ſurvey, to advertiſe his, her or their intention at the court houſe of the county where the land lies, and alſo at three other public places, at leaſt ſixty days before ſuch ſurvey ſhall be made.

2. *Be it enacted*, That in caſe any diſpute ſhould ariſe between the holders of improvement, occupant, or pre-emption claims, concerning their conditional lines, in that caſe the contending parties ſhall each chooſe one man, which two when choſen, ſhall proceed to chooſe ten others to act with them as

a jury to ſettle the diſputed line or lines, the foreman of which jury ſhall be appointed by a majority of them, and when ſo appointed, is hereby authoriſed to ſwear all witneſſes that may be adduced by the parties, and when ſaid jury have examined and heard the evidence, they ſhall ſettle ſaid conditional lines, and give judgment agreeable thereto, from which judgment there ſhall be no appeal, but ſhall be final: *Provided*, nothing herein contained ſhall prevent either party from filing his or their petition at the next court held for the county where the land may lie, for a certiorari, ſetting forth the ſpecial reaſon of wiſhing a re-examination, which petition ſhall be ſworn to in open court, on hearing of which the ſaid court may grant or reject ſaid petition as to them may ſeem juſt and proper; and it ſhall be the duty of the foreman of ſuch jury, to keep the whole of the proceedings of the jury he is foreman of, until the riſe of the next county court, and in caſe a certiorari is granted, he is hereby required to return ſaid proceedings to ſaid court.

3. *Be it enacted*, That all trials under authority of this act, ſhall be on the premiſes in the firſt inſtance; and the ſeveral juſtices of the peace of each county are hereby authoriſed to iſſue ſubpœnas to compel the attendance of witneſſes to give evidence on the trial of all diſputed conditions to the jury trying the ſame, which ſubpœna ſhall be directed to the ſheriff of the county where ſuch witneſs may reſide, and be by him ſerved, for which ſervice he ſhall have the ſame fees as for ſerving other ſubpœnas, to be paid by the party againſt whom the jury give their verdict; and in caſe any witneſs fail or refuſe to attend, they ſhall be ſubject to the ſame forfeitures and penalties as witneſſes failing to attend the county courts.

4. *Be it enacted*, That when any perſon ſhall deliver a plat, certified as by this act required, to any regiſter, it ſhall be the duty of ſuch regiſter to file the ſame in his office, and ſafely to keep the ſame, for filing which he ſhall be entitled to a fee of twenty-five cents; and it ſhall be the duty of ſuch regiſter to deliver copies of ſaid plats ſo filed, with the courſes, diſtances, and ſurveyor's certificate, to any perſon applying for the ſame, and may demand and receive the ſum of ſeventy-five cents for each copy ſo delivered.

5. *Be it enacted*, That all bills of ſale and other inſtruments in writing transferring or conveying any right of improvement, occupancy, or preemption, from one ſettler to another, ſhall be proven and recorded in the ſame manner, and under the ſame regulations as is provided and required for proving and recording deeds of conveyance under grants; which bills of ſale and other inſtruments aforeſaid, when ſo proven and recorded, ſhall be as complete evidence of ſuch transfer, as deeds of conveyance are of the transfer of patent lands.

6 *Be it enacted*, That it ſhall not hereafter be lawful for any perſon or perſons whatever, to make any ſurvey or ſurveys on any warrant or warrants, that have iſſued, or may iſſue from the ſecretary's office of this ſtate, or that have or may iſſue from the ſecretary's office of the ſtate of North-Carolina, or on any entry or entries made on the aforeſaid warrants, or that may be made on them in any of the offices of the ſtate, or

that have been made in any of the offices of the ſtate of North-Carolina, for the purpoſe of obtaining a grant or grants on the ſaid ſurveys or entries, on that tract of country aforeſaid; and in caſe any grant or grants ſhall be iſſued, or title perfected for any of the aforeſaid lands, ſuch grant ſhall not be given or received in evidence in any court within this ſtate.

LAWS OF TENNESSEE.

Paſſed at the ſecond ſeſſion of the ſixth General Aſſembly, began and held at Knoxville, on Monday the twenty eighth day of July, one thouſand eight hundred and ſix.

CHAP. I.

An act directing the diviſion of the ſtate into convenient diſtricts, for the appointment of principal ſurveyors thereof, and for aſcertaining the bona fide claims againſt the ſame, agreeable to an act of Congreſs paſſed the eighteenth day of April, one thouſand eight hundred and ſix, entitled, "an act to authorize the State of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame."

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That two regiſters of the land office ſhall be appointed by joint ballot of both houſes of the general aſſembly; they ſhall hold their offices during good behaviour, and before they enter upon the execution thereof, ſhall ſeverally, before ſome one of the judges of the ſuperior courts of law and equity, take and ſubſcribe the following oath:

I A. B. do ſolemnly ſwear or affirm, that I will faithfully, impartially, and juſtly perform the duties of my office of regiſter, according to law, and the beſt of my ſkill and judgment.

And they ſhall alſo, before one of the judges aforeſaid, enter into bond with ten ſufficient ſecurities, in the ſum of fifty thouſand dollars each, payable to the governor and his ſucceſſors in office, conditioned for the faithful diſcharge of all the duties impoſed on him by law; which bond the ſaid judge ſhall lodge in the office of the ſecretary of ſtate. One of ſaid regiſters ſhall keep his office at the ſeat of government, who ſhall be denominated the regiſter of the land office of Eaſt Tenneſſee; and one ſhall keep his office at Naſhville, and ſhall be denominated the regiſter of the land office of Weſt Tenneſſee.

2. *Be it enacted*, That the ſtate ſhall be divided into ſix diſtricts, excluſive of the diſtrict ſouth of French Broad and Holſton, in each of which one principal ſurveyor ſhall be appointed by joint ballot of both houſes of the legiſlature, whoſe duty it ſhall be to engage a ſufficient number of ſkilful ſurveyors as deputies, who ſhall be confined to the diſtricts in which they are appointed, and for whoſe conduct, in all points touching his office, the principal ſurveyor ſhall be anſwerable; each principal ſhall have authority to frame regulations and inſtructions for the government of his deputies; to adminiſter the neceſſary oaths. and to remove them for negligence or miſconduct in office: Each principal ſurveyor, ſhall, before he enters upon the duties of his appointment, take and ſubſcribe before one of the judges of the ſuperior courts of law and equity, the following oath, to wit;

I A. B. do ſolemnly ſwear or affirm, that I will faithfully, impartially, and juſtly perform the duties of my office as principal ſurveyor, according to law, and the beſt of my ſkill and judgment.—So help me God.

And he ſhall alſo, before one of the ſaid judges enter into bond with ten ſufficient ſecurities, in the ſum of fifty thouſand dollars, payable to the governor and his ſucceſſors in office, conditioned for the faithful diſcharge of all the duties impoſed on him by law; which bond the ſaid judge ſhall lodge in the office of the ſecretary of ſtate; and each deputy ſurveyor ſhall likewiſe, before he enters upon the duties of his appointment, take the oath preſcribed by his principal, before ſome juſtice of the peace, in preſence of ſuch principal, and enter into bond, with ſuch ſecurity as his principal ſhall deem ſufficient for the accurate and faithful diſcharge of his duty. And each chain carrier ſhall, before the principal or deputy ſurveyor take an oath that he will truly and impartially meaſure every line, of which he is chain carrier, and render a true account thereof to his ſurveyor.

3. *Be it enacted*, That the ſeveral diſtricts herein before directed to be laid off, ſhall be bounded and diſtinguiſhed in the following manner, to wit: One to be bounded by the lines deſcribed in the ſeventh ſection of an act of North Carolina, paſſed on the ſeventeenth day of May, in the year one thouſand ſeven hundred and eighty three, entitled, "an act to amend an act, entitled, an act for the relief of the officers and ſoldiers in the continental line, and for other purpoſes," which ſhall compoſe a diſtrict, and ſhall be known and diſtinguiſhed by the name of the firſt diſtrict.

One other diſtrict to begin eighteen miles weſt of the ſouth eaſt corner of the laſt mentioned diſtrict, to run ſouth according to the true meredian, to the ſouthern boundary of the ſtate, for its eaſtern boundary, and to be bounded on the weſt and ſouth by the congreſſional reſervation, and on north and ſouth, by the firſt diſtrict and the boundary of the ſtate; which ſhall compoſe one other diſtrict, and ſhall be known and diſtinguiſhed by the name of the ſecond diſtrict.

One other diſtrict to begin on the northern boundary of the ſtate, at a point which ſhall divide by ſix without a fraction, and which ſhall be neareſt to a point due north of the Flat rock on the Turnpike road, leading from South Weſt Point to Naſhville, thence ſouth according to the true meredian to the ſouthern boundary of the ſtate, which ſhall be its eaſtern boundary, thence weſt to be bounded by the two firſt diſtricts, incluſively, which ſhall compoſe one other diſtricts, and ſhall be known and diſtinguiſhed by the name of the third diſtrict; and the three diſtricts as above, ſhall be attached to the land office of Weſt Tenneſſee.

One other diſtrict, to begin at the north eaſt corner of the laſt mentioned diſtrict, to run eaſt with the north boundary of the ſtate, fifty four miles, thence ſouth to the ſouthern boundary of the ſtate, or the diſtrict ſouth of French Broad and Holſton, (as the caſe may be) which incluſively, ſhall compoſe one other diſtrict, and ſhall be known and diſtinguiſhed by the name of the fourth diſtrict,

One other diſtrict, to begin at the north eaſt corner of the fourth diſtrict, to run eaſt with the north boundary of the ſtate, forty eight miles, thence ſouth according to the true meredian, to the diſtrict ſouth of French Broad and Holſton, which incluſively, ſhall compoſe one other diſtrict, and ſhall be known and diſtinguiſhed by the name of the fifth diſtrict.

And one other diſtrict, to be bounded by the fifth diſtrict on the weſt, by the Virginia line on the north, and by the diſtrict ſouth of French Broad and Holſton, and the North Carolina line on the eaſt and ſouth eaſt, which ſhall compoſe one other diſtrict, and ſhall be known and diſtinguiſhed by the name of the ſixth diſtrict; and the three laſt mentioned diſtricts, together with the diſtrict ſouth of French Broad and Holſton, ſhall be attached to the land office of Eaſt Tenneſſee.

6, *Be it enacted*, That after aſcertaining the claims as aforeſaid, the principal ſurveyor ſhall cauſe to be laid off and ſurveyed with plain marked lines, ſix hundred and forty acres of land, in one or more tracts, which ſhall be fit for cultivation and improvement, and which ſhall be as near the centre of each ſection as exiſting claims and the quality of the land will admit, which ſhall be appropriated for the uſe of ſchools for the inſtruction of children forever, agreeably to the proviſions of the before recited act of congreſs, which alſo ſhall be placed in their proper places in the general plan. And in any ſection where it may appear that there is not land ſufficient fit for cultivation for the uſe aforeſaid, the ſurveyor ſhall certiſy the truth of the caſe, to the next general aſſembly, in order that the legiſlature may make proviſion for every ſuch ſection, which may be in the whole or in part deficient.

8, *Be it enacted*, That the ſurveyor ſouth of French Broad and Holſton, ſhall keep his office at Sevierville.—The ſurveyor of the firſt diſtrict ſhall keep his office at Naſhville. The ſurveyor of the ſecond diſtrict ſhall keep his office at Jefferſon. The ſurveyor of the third diſtrict ſhall keep his office at Alexander's. The ſurveyor of the fourth diſtrict ſhall keep his office at Kingſton. The ſurveyor of the fifth diſtrict ſhall keep his office at Knoxville. And the ſurveyor of the ſixth diſtrict ſhall keep his office at Joneſborough. And the ſurveyors herein directed to be appointed, are hereby required and directed to give due attendance at their reſpective offices at all times, in order to perform the duties by this act impoſed upon them.

10. *Be it enacted*, That the location aforeſaid, ſhall bear date, the day on which it ſhall be made.

21. *Be it enacted*, That it ſhall and may be lawful for any perſon or perſons who may be deſirous of eſtabliſhing the bounds of any lands he, ſhe, or they may claim by virtue of any title derived under a grant from North Carolina, or which may hereafter be derived from this ſtate, which ſaid title is good and valid in law, to cauſe the ſame to be proceſſioned, in the following manner, viz: Such perſon or perſons ſhall cauſe notice to be given at ſeveral of the moſt public places within the county, wherein ſaid lines are to be proceſſioned, at leaſt twenty days before the ſame is to be performed, of the time appointed for proceſſioning, and the corner at which he intends to begin; and he ſhall alſo notify the holders or their agents in writing, of ſuch intention as aforeſaid, if ſuch holders or their agents reſide within ſaid county; and it ſhall be the duty of any ſurveyor appointed under the authority of this act, upon application to him made, to run, mark, and deſcribe ſuch tract of land agreeably to the former lines, or natural boundaries, (if any) deſcribed in ſuch grant or deed, founded upon a grant; or if ſuch lines have not been marked, to mark new lines agreeably to the calls of ſaid grant or deed: (*Provided*, ſuch deed or grant may have been recorded in the county where ſuch land lies) and make a correct plat and certificate of the ſame, as required in other caſes, and return the ſame to the regiſter of ſaid county, to be recorded at the expence of ſuch applicant; and in any caſe where the lines are conteſted by adverſe claimants, the ſheriff of ſaid county ſhall, upon application of either of the parties, forthwith ſummon a jury to try the matter in diſpute, whoſe deciſion ſhall be a guide to the ſurveyor in making his return as aforeſaid; and the ſurveyor ſhall be entitled to the ſame fees, and be ſubject to the ſame penalties as preſcribed in other caſes; which fees ſhall be paid by the perſon or perſons at whoſe inſtance ſuch proceſſioning ſhall be made.

37. *Be it enacted*, That an act of the general aſſembly of this ſtate, paſſed the fourteenth day of November, one thouſand eight hundred and one, entitled, "An act to confirm and make good all lawful entries made, and warrants and grants iſſued by the ſtate of North Carolina, for lands lying within the limits of this ſtate, and to authoriſe the ſecretary and governor of the ſame, to perfect titles on all the lawful entries made, and warrants that are not yet perfected," and alſo an act of the general aſſembly of this ſtate paſſed the fourteenth day of November, one thouſand eight hundred and one, entitled, "An act appointing ſurveyors and entry takers, and directing their

duties in office," be, and the ſame are hereby repealed; and it ſhall be the duty of the ſeveral entry takers appointed under the laſt recited act, to depoſit in the office of the principal ſurveyor of the diſtrict, in which their reſpective counties may lie, their reſpective books of entries, on or before the third Monday of November next.

38. *Be it enacted*, That it ſhall and may be lawful for any perſon or perſons who may have made an entry in the office of the entry taker of any county, in purſuance of ſaid laſt recited act, and who may have filed his warrant with ſaid entry taker, to demand and receive the ſame; and ſaid warrant ſhall be ſubject to be examined by ſaid commiſſioners, under the ſame rules and reſtrictions as other warrants and grants; and the ſaid perſon who may have made an entry for any ſpecial piece of ground, ſhall be entitled to a preference for the term of ſix months from the time of opening the land office for receiving entries, to enter the ſame warrant, on the ſame piece of ground, provided ſaid warrant be adjudged valid by the commiſſioners: And if the ſaid warrant ſhall be adjudged invalid by the ſaid commiſſioners, ſuch perſon ſhall be entitled to a preference for the term aforeſaid, to enter the ſame piece of ground upon any good and valid warrant, or the ſame warrant of ſurvey: *Provided*, the ſaid warrant be adjudged valid by the commiſſioners: And if the ſaid warrant be adjudged invalid by the ſaid commiſſioner, the ſaid perſon ſhall be entitled to a preference for the term of ſix months after the opening of an office, to enter the ſame piece of ground on any good and valid warrant.

41. *Be it enacted*, That it ſhall and may be lawful for any perſon or perſons, or the legal repreſentatives of ſuch perſon or perſons, or the rightful aſſignee of ſuch perſon or perſons, who may have made an entry for any vacant and unappropriated lands within this ſtate, in the office of any entry taker, in purſuance of, and under the authority of the laws of North Carolina, and who may have filed his warrant with ſaid entry taker, or who may have lodged his warrant with any ſurveyor for the purpoſe of having the ſame ſurveyed, to demand and receive the ſame of ſuch ſurveyor or entry taker; and ſaid warrants ſhall be ſubject to be examined by ſaid commiſſioners, under the ſame rules and reſtrictions as other warrants, and the ſaid perſon who may have made an entry for any ſpecial piece of ground, ſhall be entitled to receive a grant from this ſtate, for the ſame piece of ground by virtue of the ſame entry.

51. *Be it enacted*, That it ſhall hereafter be the duty of the regiſters of each county within this ſtate, to record with the grant the certificate of ſurvey, together with the names of the ſurveyor and chain carriers, for which he may demand and receive twelve and one half cents for each certificate, over and above the preſent legal fees, to be paid by the party at whoſe inſtance the grant is recorded. And the ſaid regiſters ſhall be entitled to receive from either of the treaſurers of this ſtate, for each tranſcript of a grant in a well bound book, twelve and one half cents, and where the certificate of ſurvey is attached

to ſaid tranſcript, four and one half cents, over and above the ſame.

59. *Be it enacted*, That it ſhall be lawful for each regiſter and principal ſurveyor, or ſurveyor general, to employ at his own expence, ſuch clerk or aſſiſtants as may be neceſſary in his office, for whoſe conduct he ſhall be accountable, and each of ſuch clerks or aſſiſtants, before he ſhall be permitted to do any buſineſs for or in behalf of ſuch regiſter or ſurveyor, relative to the duties of his office, ſhall, before ſome juſtice of the peace, take an oath or affirmation, well, truly and faithfully to perform the duties enjoined on him ſo far as he ſhall be entruſted by ſaid regiſter or ſurveyor, to the beſt of his ſkill and abilities, according to law.

CHAP. II.

An act for the appointment of a Regiſter of the Land Office, and providing for the ſale of the lands ſouth of Holſton and French Broad, agreeably to the conſtitution of this State, and the proviſions of the Act of Congreſs therein refered to.

1. *Be it enacted by the General Assembly of the State of Tennessee*, That a regiſter of the land office ſhall be appointed by joint ballot of both houſes of the general aſſembly, who ſhall hold his office during good behavior, and before he enters upon the execution thereof, ſhall, before one of the judges of the ſuperior courts of law and equity, take and ſubſcribe the following oath, to wit:

I, A. B. do ſolemnly ſwear or affirm, (as the caſe may be) that I will well, and truly, and juſtly perform the duties of my office, as regiſter of the land office, according to the beſt of my ſkill and ability. So help me God.

And whereas, it is provided by an act of the congreſs of the United States, entitled, " An act to authoriſe the ſtate of Tenneſſee to iſſue grants to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame," that the people reſiding in the ſtate of Tenneſſee, ſouth of French Broad and Holſton, and weſt of Big Pigeon rivers, provided for by the conſtitution of the ſtate of Tenneſſee, ſhall be ſecured in their reſpective rights of occupancy and pre-emption, & ſhall receive titles for ſuch quantities as they may reſpectively claim, including their improvements, not exceeding ſix hundred and forty acres each, nor exceeding the quantities they have heretofore claimed reſpectively, according to their conditional lines, where ſuch have been eſtabliſhed, at a price not leſs than one dollar per acre. Is purſuance whereof,

2. *Be it enacted*, That the reſpective claimants of lands within the limits aforeſaid, ſhall be entitled to grants for their reſpective claims of land, at the rate of one dollar for each acre contained within the bounds of ſuch claim, agreeable to their conditional lines, & not exceeding ſix hundred and forty acres

under each occcupant claim, one tenth part of the whole purchaſe of which, ſhall be paid on or before the firſt day of March, in the year of our Lord one thouſand eight hundred & eight, and before the obtaining of a grant therefor ; and the reſidue in nine equal annual inſtalments, the firſt of which ſhall become due and be paid on the firſt day of March, in the year one thouſand eight hundred and nine.

3. *Be it enacted*, That on payment of the one tenth part of the purchaſe money as aforeſaid, into the treaſury of the ſtate, by the party rightfully claiming, ſuch claimant may demand of the treaſurer aforeſaid, a receipt for the ſame, which receipt, the party claiming the land aforeſaid, may preſent to the regiſter of the land office, and if the amount ſpecified therein ſhall be equal to one tenth part of the purchaſe money as aforeſaid, the regiſter ſhall file the ſame in his office as a check upon the treaſurer, and render to ſuch applicant a receipt for the ſame ; and the applicant aforeſaid, ſhall be entitled to, and receive a patent for ſuch lands agreeable to the form herein after preſcribed ; and in filling up the blanks in ſaid patent, the ſaid regiſter is hereby required to ſpecify the amount ſo paid and the ſum chargeable on the land held under ſuch grant or patent ; and ſuch grant or patent ſhall not enable the party obtaining the ſame, to grant, convey, or mortgage the lands or eſtate therein mentioned, otherwiſe than by ſubjecting the ſame to the whole amount of principal remaining unpaid, with the intereſt that may accrue thereon.

4. *Be it enacted*, That when any grant ſhall have been finally completed, the regiſter ſhall cauſe the plat and certificate of ſurvey, (together with the aſſignments, if any) on which ſuch grant is founded, to be exactly entered and recorded in well bound books to be provided by him for that purpoſe.

5. *Be it enacted*, That upon the receipt of the plat and certificate as aforeſaid, and upon the receipt of the treaſurer's receipt, for the one tenth part of the purchaſe money as aforeſaid, the regiſter ſhall make out a grant by way of a deed poll to the party having right, in the following form.

THE STATE of TENNESSEE.

To all to whom these preſents shall come, Greeting :

KNOW YE, that in conſideration of the ſum of paid by C. D. into the public treaſury of this ſtate, [then reciting the circumſtances whether in full or in part, as in this act required] there is granted unto the ſaid C. D. a certain tract of land containing acres, [deſcribing the bounds and courſes of the land, and the date of the ſurvey upon which the grant iſſues] with its appurtenances : TO HAVE AND TO HOLD the ſaid tract or parcel of land, with its appurtenances, to the ſaid C. D. and his heirs and aſſigns forever.

IN witneſs whereof, A. B. Governor of the ſtate of Tenneſſee, hath hereunto, ſet his hand, and cauſed the Great Seal of the ſaid Sate of to be affixed, at on the day of in the

year of our Lord and of American
Independence

A. B.

By the Governor,
C. D. Secretary.

Upon which grant the ſaid regiſter ſhall endorſe that the party hath title to the ſame; and it ſhall be ſigned by the governor, counterſigned by the ſecretary, ſealed with the great ſeal of the ſtate, and then entered on record at full length, by the ſaid regiſter, in well bound books to be provided by him for that purpoſe, with ſufficient margin to enter the payments when due, and when made, oppoſite the ſaid record, and kept by the regiſter; and being ſo entered, ſhall be certified to have been regiſtered, and then, be delivered to the party or his order; and where a grant ſhall be made to the heir or aſſignee of any perſon claiming under any of the before mentioned rights, the material circumſtances of the title ſhall be recited in ſuch grant. It ſhall alſo be the duty of the regiſter to enter in a well bound book, to be kept by him for that puppoſe, an exact account of all monies paid to the treaſurer by virtue of this act, and note therein diſtinctly the different ſums, when paid, and by whom. The regiſter ſhall, at all times, on receiving the treaſurer's receipt required by virtue of this act, enter the amount thereof to the credit of the party obtaining the ſame, on the margin oppoſite the regiſter of his grant, in the manner as above, and ſhall moreover certify the ſame if required, upon the grant in poſſeſſion of the ſaid grantee or his aſſignee, correſponding with the credit entered as aforeſaid.

6. *Be it enacted,* That a ſurveyor general ſhall be appointed for the diſtrict of country ſouth of French Broad and Holſton, and betwen Big Pigeon and Tenneſſee rivers, who ſhall be choſen by joint ballot of both houſes of the general aſſembly; he ſhall hold his office during good behaviour, and before he ſhall enter on the duties of his appointment, ſhall, before one of the judges of the ſuperior courts of law and equity, take an oath, and give bond with ten ſufficient ſecurities, in the ſum of fifty thouſand dollars, for the faithful execution thereof, payable to the governor for the time being; which bond ſhall be lodged in the office of the ſecretary, and ſhall not be void upon the firſt or any ſubſequent recovery, but be liable to be ſued upon by any perſon who may or ſhall have ſuſtained damage, by occaſion of the miſconduct of ſaid ſurveyor, or his deputy or deputies.

It ſhall be his duty to engage a ſufficient number of ſkilful ſurveyors as his deputies, for whoſe conduct in every reſpect, touching his office, the ſurveyor general ſhall be anſwerable; he ſhall alſo aſſign them ſuch diviſions in which they ſhall act that the ſurveys may be completed on or before the firſt day of September, in the year one thouſand eight hundred and ſeven; and all deputies ſo appointed, ſhall have power and authority to act and to do in all things, and to every intent and purpoſe as the ſurveyor general, except in caſes otherwiſe

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provided in this act: *Provided always*, that any deputy ſurveyor ſhall be removable from office at the diſcretion of the ſurveyor general.

7. *Be it enacted*, The ſurveyor hereby directed to be appointed, ſhall, without delay, cauſe his diſtrict to be divided by north and ſouth lines, run according to the true meredian, and by others croſſing them at right angles, ſo as to form townſhips of ſix miles ſquare each, unleſs when the boundaries of his diſtrict may render it impracticable, and there this rule ſhall be departed from no further than ſuch particular circumſtances may require.

The corners of the townſhips ſhall be marked with progreſſive numbers from the beginning; each diſtance of a mile between the ſaid corners, ſhall alſo be diſtinctly marked, with marks differing from thoſe of the corners, and the lines of the townſhips diſtinguiſhed by marks differing from thoſe of appropriated ſurveys; and it ſhall be the duty of the ſurveyors reſpectively, to cauſe to be marked on a tree near each corner made as aforeſaid, and within the townſhip, the number of ſuch townſhip; and the ſurveyors ſhall carefully note in their reſpectively field books, the names of the corner trees marked, and the numbers ſo made; and the ſaid ſurveyor general ſhall cauſe to be connected with the ſeveral lines of each townſhip, every ſurvey by this act directed to be made within his diviſion, which is claimed by right of occupancy and pre-emption; and ſhall, immediately after aſcertaining the claims aforeſaid, cauſe to be laid off and ſurveyed, with plain marked lines, ſix hundred and forty acres of land, in one or more tracts, ſo that the ſame may be fit for cultivation, which ſaid tract or tracts ſhall be deſcribed in the general plan, and ſhall be appropriated (agreeably to the proviſions of the before recited act of congreſs) for the uſe of ſchools, for the inſtruction of children forever; and in any townſhip, where it may appear that all the lands fit for cultivation, are claimed by rights of occupancy and preemption, the ſurveyor general ſhall certify the ſame to the next general aſſembly, in order that the legiſlature may appropriate the proceedings of the ſales of ſix hundred and forty acres for the uſe aforeſaid, in each townſhip, or ſo many thereof as may be deficient.

8. *Be it enacted*, That the ſurveyor general aforeſaid, ſhall cauſe without delay, to be ſurveyed, the part of the lands within the diſtrict aforeſaid, which are claimed by right of occupancy or pre-emption, agreeably to the proviſions of the conſtitution of this ſtate, and the act of the congreſs of the United States, herein before referred to: Obſerving the following method in the proſecution thereof, to wit:

9. *Be it enacted*, That the ſurveyor general ſhall divide the diſtrict aforeſaid into proper and convenient diviſions, in ſuch manner as he may think expedient, ſo that the boundaries of each diviſion, either natural or artificial may be known; and appoint one deputy ſurveyor for each diviſion within ſixty days after his appointment, who ſhall give ſuch bond and ſecurity to the ſurveyor general as he may deem ſufficient; which bond, when ſo taken, the ſurveyor general ſhall enter

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at large on record, as well as the oath of ſaid deputy, the form of which is hereafter given. And every ſuch deputy ſurveyor ſhall, within ſixty days at fartheſt, next after his appointment, proceeded to ſurvey the lands claimed by right of occupancy, agreeable to the conſtitution of this ſtate, and the act of congreſs aforeſaid, at the proper coſt and charges of the ſaid occupant, their aſſignees, legal repreſentaties, or guardians of ſuch as are minors; it ſhall be his duty to give at leaſt ten days previous notice, by advertiſing the ſame at three of the moſt public places within his diviſion, of the day, and the particular part of the diviſion at which he will begin his ſurvey, and thereby requiring the attendance of all perſons intereſted, their guardians or agents, and he ſhall proceed without unneceſſary intermiſſion to ſurvey regular order, until he has perfected the ſurveying of all the claims within his diviſion; all lines ſhall be plainly marked upon trees, and meaſured with chains containing two purches of ſixteen feet and one half each, and the chain ſhall be adjuſted to a ſtandard kept for that purpoſe, every ſurveyor ſhall note in his field book all water courſes and public roads over which the line he runs ſhall paſs; and ſhall, as ſoon as it can conveniently be done, or within ſixty days at furtheſt after making the ſurvey, deliver to the ſurvey general a fair and true plat and certificate of every ſuch ſurvey, the quantity contained, the county wherein it lies, the courſes & deſcriptions of the ſeveral boundaries, natural and artificial, expreſſing the names of ſuch natural boundaries where they have any, & the names of every perſon whoſe lines makes a boundary. And the ſurveyor general ſhall examine the returns of the deputies aforeſaid, and correct them when neceſſary and practicable; and where it ſhall not be practicable from the return itſelf, he ſhall direct a re-ſurvey without any additional coſts to the claimant; and in every caſe, upon the ſurvey being completed, ſhall within three months, record the plat and certificate of ſuch ſurvey in a well bound book, by him to be kept for that purpoſe.

10. *Be it enacted*, That any ſurveyor, whether ſurveyor general or deputy, failing in any of the duties by this act required, ſhall be liable to be indicted in the court of the diſtrict in which he ſhall reſide, and puniſhed by amercement and deprivation of his office, and incapacity to take it again by ſuch failure. And when any deputy ſurveyor is performing the duties in manner directed in the ninth ſection of this act, it ſhall be the duty of each occupant, his, her or their legal repreſentative, or guardian of any infant, to give due attendance, and ſhew their lines, (if any) or other evidence of boundary or claims, in order to facilitate the ſurveying of the ſame; and on failure thereof, ſhall forfeit and pay to the uſe of the ſaid deputy ſurveyor, five dollars, to be recovered by action of debt before any juriſdiction having cognizance thereof.

11. *Be it enacted*, That every ſurveyor ſhall under the penalty of twelve dollars, expreſs and declare, in or on the plat and certificate of each ſurvey by him or them taken or made, the true quantity or degree of the magnetic needle, from the true meridian, and whether it be eaſt or weſt,

12. *Be it enacted*, That every deputy ſurveyor ſhall before he enters upon the duties to be preformed under this act, take, before the ſurveyor general, (who is hereby authoriſed to adminiſter the ſame) the following oath, to wit;

I, A. B. do ſolemnly ſwear or affirm (as the caſe may be) that I will well, truly, and juſtly lay off and ſurvey the claim of each perſon, which I am bound by law to ſurvey agreeably to the conſtitution and laws of this ſtate; and that I will in all things do and perform the office of deputy ſurveyor, to the beſt of my ſkill and abilities.

And every perſon appointed by the deputy ſurveyor to carry the chain, ſhall, before he enters upon the duties thereof, take the following oath:

I, A. B. do ſolemnly ſwear or affirm, that I will truly, juſtly, and impartially meaſure every line of which I may be chain carrier, and render a true account of the number of chains contained in each, to the ſurveyor thereof:

Which ſaid oath or affirmation ſhall be taken before the deputy ſurveyor, or the ſurveyor general, who is hereby authoriſed and required to adminiſter the ſame.

13. *Be it enacted*, That every deputy ſurveyor to be appointed by virtue of this act, ſhall, on or before the firſt day of Auguſt next, make and return into the office of the ſurveyor general, plats of every ſurvey which he ſhall have made in purſuance of this act, connected together in one general draft, ſo far as they may be contiguous to each other, with the courſes and diſtances of each line; the water courſes and public roads, the mountains and the quality of land, on the lines of the townſhips truly laid down; the quantity of land contained in each ſurvey, and the name of the perſon for whom the ſame was ſurveyed, numbering the ſame in numerical order. And every ſucceeding year he ſhall make a like return of the ſurveys made in the year preceeding; and the ſurveyor general ſhall without delay, by virtue of his office, proceed to make a correct map of the diſtrict of which he is ſurveyor, preſenting at one view the reſidum of the vacant lands therein; two fair plans of which ſhall be depoſited in the office of the ſecretary of this ſtate, for the uſe of the legiſlature thereof.

14. *Be it enacted*, That every perſon for whom any ſurvey ſhall have been made, and recorded in the office of the ſurveyor general, agreeably to the proviſions of this act, ſhall, on or before the day on which the firſt inſtalment becomes due, purſuant to this act return the plat and certificate of ſurvey, duly certified by the ſurveyor general, into the office of the regiſter, and on failure thereof, ſhall forever forfeit to the ſtate, all right, intereſt and claim that he has, in and to the ſame, except ſuch failure ſhall appear to have ariſen through the default of the ſurveyor or other officer, or detained on account of a caveat entered againſt the ſame, or other legal impediment, and ſaving the rights of infants and lunatics.

15. For preventing ſurreptitious grants; *Be it enacted*, That the regiſter ſhall in no caſe iſſue a grant to any aſſignee of a plat and certificate of ſurvey, unleſs ſuch aſſignment is upon ſaid

plat and certificate of ſurvey, certified by the ſurveyor general to be a true copy, and that it is examined and recorded in his office; which ſaid aſſignment ſhall be proven in open court of of the county where the land lies, by two creditable witneſſes, with the clerk's certificate of probate annexed thereto.

16. *Be it enacted*, That if any perſon ſhall obtain a ſurvey of land to which another hath a claim, the perſon having ſuch claim, may enter a caveat to prevent his obtaining a grant; until the claim can be determined. Such caveat ſhall be entered within ſix months at furtheſt, after the receipt of the plat and certificate of ſurvey at the ſurveyor general's office, expreſſing alſo, the nature of the right on which the plaintiff therein claims the land, and the quantity and part of ſaid ſurvey claimed; and ſhall take from the ſurveyor general a certified copy thereof, which, within thirty days thereafter, he ſhall deliver to the clerk of the court of the county in which the land or any part thereof lies; and ſhall moreover take from the ſurveyor general a certified copy of the ſurvey and plat, which, within thirty days, from the entering ſuch caveat, he ſhall, in like manner, deliver to the clerk of the court where the ſuit ſhall be tried, and in caſe of failure in either inſtance, the caveat ſhall be void.

17. *Be it enacted*, That the clerk of ſuch court, on receiving the ſame, ſhall enter ſuch copy of the caveat in a book, to be kept by him for that purpoſe, and ſhall thereupon iſſue a ſummon, directed to the ſheriff of any county where the defendant may reſide, reciting the cauſe for which ſuch caveat is entered, and requiring the defendant to appear on the firſt day of the next ſucceeding county court, and defend his right; and on ſuch proceſs being returned executed on the defendant, his agent or attorney, the court ſhall proceed to determine the right of the cauſe in a ſummary way, without pleadings in writing, by impanneling and ſwearing a jury, for the finding of ſuch facts as are material to the cauſe, and are not agreed by the parties, and ſhall thereupon give judgment; a copy of ſuch judgment, if in favor of the defendant, being delivered into the office of the ſurveyor general, within thirty days thereafter, ſhall vacate the ſaid caveat. And if the ſaid judgment be in favor of the plaintiff, upon delivering the ſame into the office of the ſurveyor general, together with a plat and certificate as in other caſes; and in any caveat where judgment ſhall be given for the defendant, the court ſhall award him his coſts; and may compel the plaintiff in any caveat if they think fit, to give ſecurity for coſts or on failure thereof, may diſmiſs the ſuit; and in caſe the plaintiff in any caveat ſhall recover, the court ſhall award coſts againſt the defendant.

18. *Be it enacted*, That when any diſpute ſhall take place concerning the right or boundary lines of any tract or tracts of land to be ſurveyed, the ſurveyor ſhall not proceed to ſurvey the ſame, without the conſent of both parties claiming; and if the claimants make any agreement, or compromiſe reſpecting the manner of running ſaid interfering lines, the ſurveyor ſhall proceed to ſurvey in purſuance of ſaid agree-

ment, and the ſame ſhall be forever binding on ſaid parties ; and if no agreement can take place in one day, it ſhall be duty of the ſheriff of the county, or his deputy, on being notified of the ſame, by either of the parties, to ſummon a jury who are unconnected with either party by affinity or conſanguinity, who ſhall attend forthwith to decide the right of claim, and the manner in which ſaid interfering lines ſhall be run. and it ſhall be the duty of the ſheriff to ſummon ſuch witneſſes as either party may require, in the bounds of his county, to attend and give evidence to the jury touching the ſaid diſpute ; and the deciſion of ſaid jury ſhall be the guide for the ſurveyor in ſurveying ſaid lines, and making plats and certificates of ſurvey for the ſame ; but nothing herein contained ſhall prevent the party loſing any of what he claimed from entering with the ſurveyor general a caveat for ſo mutch of his claim, as has been included in the ſurvey of the other party, under the ſame rules and reſtrictions as are herein provided for caveats in other caſes.

19. *Be it enacted*, That the ſaid ſheriff or his deputy (as the caſe may be) is hereby authoriſed and required to attend during the time ſaid jury are deciding ſaid diſpute, and is hereby authoriſed and required to qualify the witneſſes who are called upon to give evidence to ſaid jury, and to adminiſter to ſaid jury the following oath :

You do ſwear or affirm, (as the caſe may be) that as jurors in this diſpute between A. and B. you will decide juſtly and impartially, according to evidence, to the beſt of your knowledge.

Which ſheriff ſhall keep an accurate memorandum of ſuch jury, and their proceedings thereon, and return the ſame to the deputy ſurveyor, who is hereby required to forward the ſame, together with the plat and certificate, to the ſurveyor general.

20. *Be it enacted*, That if the party to whom any grant ſhall have iſſued, ſhall fail for the ſpace of ſix months, to pay any inſtalments which may become due, it ſhall be the duty of the regiſter to make out a warrant, directed to the ſheriff of the county where the land may lie, directing him to collect the ſame, (with the intereſt computed thereon from the time it became due) from the perſonal property of the perſon from whom the ſame is due ; and in caſe he has not ſufficient perſonal property to ſatiſfy the ſame, to proceed to ſell the ſaid land, for which the ſaid money became due, or ſuch part thereof, as may be ſufficient to pay the ſame ; and the purchaſer ſhall take ſaid land, ſubject to whatever ſum may remain unpaid of the price of ſaid land, and the ſale ſhall be ſufficient and available in law, notwithſtanding the perſon againſt whom ſaid warrant iſſued, may have ſold and aſſigned his right.

21. *Be it enacted*, That it ſhall and may be lawful for the clerks of the different counties, regiſter of the land office, ſheriffs, or coroners, the ſurveyor general, and his deputies reſpectively, to demand, and receive, and take, the ſeveral fees herein after mentioned and allowed, for any buſineſs by them

reſpectively done by virtue of their ſeveral offices under this act, and no other fees whatſoever, that is to ſay :

TO THE REGISTER,

For receiving a plat and certificate, and giving a receipt for the ſame, fifty cents.

For iſſuing and recording a grant thereupon, one dollar.

For recording a plat and certificate of ſurvey, fifty cents.

For a copy of any grant of land, twenty five cents.

For every ſearch for any thing, or for reading the ſame, if a copy be not required, twelve and an half cents.

TO THE CLERKS OF THE COUNTY COURTS,

For docketing a caveat or appeal, twenty five cents.

For a copy of the judgment thereupon fifty cents.

For iſſuing a ſummons for defendant, twenty five cents.

And for all other ſervices done as required by this act, the ſame fees as in ſimilar caſes.

AND TO THE SHERIFF,

For ſummoning a jury, two dollars.

For each days attendance during the trial, one dollar.

And for other ſervices by this act required, the ſame fees as in ſimilar caſes.

TO THE SURVEYOR GENERAL,

For examining and recording a plat and certificate of ſurvey, and certifying the ſame, one dollar.

For each copy duly certified as by this act required, one dollar.

For entering caveat, and filing the ſame, one dollar.

For copy and certificate thereof, fifty cents.

For filing judgment of court, on deciſion of caveat, twenty five cents.

For every ſearch, twelve and one half cents.

AND TO THE DEPUTY SURVEYOR,

For every ſurvey by him plainly bounded as this act directs, and for a plat of ſuch ſurvey, where the ſurvey ſhall not exceed one hundred and fifty acres, one dollar and fifty cents ; and for each acre over one hundred and fifty, and not exceeding two hundred and fifty, in the ſame tract, three fourths of a cent ; and for each acre over two hundred and fifty, and not exceeding four hundred acres, one half of a cent ; and for each acre over four hundred, one fourth of a cent : *Provided*, no ſurvey ſhall exceed ſix hundred and forty acres.

For every line over eight, in the ſame tract, in one ſurvey, occaſioned by the meandering of water courſes, each five cents ; for every line over eight, not occaſioned by the meandering of water courſes, in the ſame tract, ten cents each ; for every experimental line, twenty five cents ; and where a ſurveyor ſhall be ſtopped or hindred from finiſhing a ſurvey by him begun, he ſhall be paid half fees by the party requiring the ſame to be ſurveyed : *Provided*, That if ſaid hindrance ſhall at any time be occaſioned by the demand of an adverſe claimant, that in that caſe, it ſhall ſubject the perſon againſt whom the right is determined, to the payment thereof.

22. *Be it enacted*, That two perſons be appointed by joint ballot of both houſes of the general aſſembly, who, together

with the ſurveyor general of the lands ſouth of French broad and Holſton, are hereby appointed commiſſioners, whoſe duty it ſhall be, to proceed without delay, as ſoon as the lines of of the occupant claims are aſcertained, to locate and deſcribe by marked lines or natural boundaries, within the county of Blount, and in parts of the counties adjoining the ſame, (if neceſſaay) in one entire tract, one hundred thouſand acres of land, to be diſpoſed of for the uſe of two colleges to be eſtabliſhed by the legiſlature, in purſuance of the proviſions of an act of congreſs entitled, "An act to authoriſe the ſtate of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame." And alſo to locate and deſcribe by marked lines, or natural boundaries as aforeſaid, within the county of Sevier, and in the parts of any counties adjoining the ſame, [if neceſſary] in one entire tract, one hundred thouſand acres of land, to be diſpoſed of for the uſe of academies, one to be eſtabliſhed in each county in the ſtate, by the legiſlature, in purſuance of the proviſions of the before recited act.

It ſhall be the duty of ſaid commiſſioners to locate and deſcribe ſaid tracts of land in ſuch manner, and in ſuch places, that the ſame may contain at leaſt the quantities aforeſaid, [with the additional quantity of ſix hundred and forty acres, to each ſix miles ſquare] of land actually claimed by occupancy, or fit for cultivation and improvement; and the ſaid commiſſioners ſhall make out fair plats or drafts of ſaid ſeveral ſurveys, and file the ſame in the office of the ſurveyor general, for the guide and direction of the ſurveyors who may be appointed by the ſurveyor general to ſurvey the lands within ſaid tracts, who ſhall in all reſpects obſerve the ſame regulations as are preſcribed for ſurveying other occupant claims.

23. *Be it enacted*, That it ſhall be the duty of the ſurveyor general, to record in two ſeparate books to be kept for that purpoſe, all ſurveys made in either of ſaid tracts, keeping one book for the ſurveys in each tract; and he ſhall number in each book, the ſurveys in the order in which they are recorded, and ſhall endorſe on each plat and certificate of ſurvey, before he delivers the ſame to the perſon who is entitled to obtain a grant, that the ſaid ſurvey was made within the tract of land located for the uſe of colleges or academies [as the caſe may be] and the perſon entitled to the intereſt of ſaid plat and certificate, may obtain from the office of the regiſter a grant, on the ſame conditions, limitations and reſtrictions, as grants are obtained for other lands ſouth of French Broad and Holſton, and in the ſame form, with this addition, that the regiſter ſhall inſert in ſaid grant, that it was iſſued for lands lying within the tract located for the uſe of the colleges or academies [as the caſe may be,] and it ſhall be the duty of the treaſurer, to enter in a book to be kept for that purpoſe, all monies paid on account of lands within the tract located for colleges, and the amount of the monies ariſing from the ſale of the two tracts aforeſaid [except ſo much thereof as ſhall be included in ſaid bounds for the uſe of ſchools] ſhall be

ſubject to the future diſpoſal of the legiſlature of this ſtate, in ſuch manner, that the intereſt and profits of the firſt mentioned one hundred thouſand acres, ſhall go to, and be veſted in equal moieties, in the truſtees of ſaid two colleges; and the intereſt and profits of the other hundred thouſand acres, ſhall equally veſt in and enure to the uſe equally of the ſeveral academies to be eſtabliſhed as aforeſaid, in the ſeveral counties heretofore, or that may hereafter be eſtabliſhed in this ſtate.

24. *Be it enacted*, That the ſurveyor general ſhall be allowed the following fees for the ſeveral ſervices he is by this act required to perform, and for which no proviſion is made. For running and marking the lines of the townſhips as by this act required. one dollar and fifty cents, for each mile ſo run and marked; for each ſix hundred and forty acres of land, for the uſe of ſchools, ſix dollars; which ſaid ſums ſhall be conſidered as full compenſation for the ſervices rendered by the ſurveyor, and his chain carriers and markers; for locating and deſcribing the two tracts of one hundred thouſand acres each, for the uſe of the colleges and academies, fifty dollars; for making a complete draft and connected plan of his diſtrict, and depoſiting two copies thereof with the ſecretary as by this act required, fifty dollars; which ſaid ſeveral ſums, the ſaid ſurveyor general may ſtate and claim, ſubject to be liquidated by the regiſter, who is hereby authoriſed and required to liquidate the ſame; which ſaid ſtatement and ſettlement the regiſter ſhall record in his office, and iſſue a warrant or warrants to the full amount of ſaid account which ſhall authoriſe the ſaid ſurveyor to lay off for himſelf within the bounds of his diſtrict, a quantity of land equal to the amount of the ſum due him, at the rate of two dollars per acre, for which he ſhall be entitled to receive a grant or grants from this ſtate, in the ſame manner as preſcribed in other caſes within his diſtrict.

25. *Be it enacted* That the treaſurer of the diſtricts of Waſhington and Hamilton, before receiving any monies by virtue of this act, ſhall enter into an additional bond, payable to the governor for the time being, in the ſum of one hundred thouſand dollars, with ſecurity to be approved of by the ſaid governor, for the faithful accounting for all ſuch monies, and ſhall be allowed one per cent. for receiving and ſafe keeping all monies by him received under this act, until otherwiſe provided for by law.

26. *Be it enacted*, That the ſeveral fines and forfeitures herein laid, given, or inflicted, and not otherwiſe provided for in this act, be recoverable before any any juriſdiction having cognizance of the ſame, by action of debt, one half to the uſe of the informer, or perſon who will ſue for the ſame, and the other for the uſe of the county where ſuch recovery ſhall be had.

CHAP. IV.

An act to amend an act, entitled, " An act making proviſion for miſtakes in ſurveys of land," paſſed April the twenty third, ſeventeen hundred and ninety ſix.

WHEREAS doubts have ariſen on the conſtruction of the above recited act, whether any perſon, other than the grantee or patentee, can have the relief extended by ſaid act. Wherefore, to do away doubts in future:

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee,* That not only the patentee or grantee ſhall have the benefit of the aforeſaid act, but all perſons claiming under them by deed, deviſe, or otherwiſe, ſhall have and enjoy all the benefit and advantages ariſing from the aforeſaid act.

2. *Be it enacted,* That ſo much of the firſt ſection of the aforeſaid act, as requires the reſpective courts to direct their clerks to certify ſuch facts as appears to their ſatisfaction, to the ſecretary of the ſtate of North Carolina, be, and the ſame hereby is repealed; and in future it ſhall be the duty of the reſpective county courts in this ſtate, to direct their clerk to certify ſuch facts as appear to their ſatisfaction, to the ſecretary of this ſtate, who ſhall have and exerciſe all the power and authority heretofore uſed and exerciſed by the ſecretary of the ſtate of North Carolina, in ſuch caſes.

CHAP. V.

An act to fix the ſalaries of the Judges and Attorney General.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee,* That from and after the fourth Monday of September, in the preſent year, the ſeveral judges of the ſuperior courts of law and equity, ſhall each be entitled to, and receive at the rate of one thouſand dollars by the year, to be paid quarterly, out of either of the public treaſuries, during continuance in office: *Provided,* There ſhall be a proportional deduction of ſalary for non-attendance: *And provided also,* Such non-attendance be not occaſioned by ſickneſs or unavoidable accident.

2. *Be it enacted,* That all laws and parts of laws coming within the meaning of this act, ſhall be, and is hereby repealed.

3. *Be it enacted,* That this act ſhall be in force from and after the paſſage thereof.

CHAP. VI.

An act allowing and regulating certain officers fees in particular caſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the ſeveral county courts are hereby authoriſed and empowered to make an allowance to their county ſolicitor, of any ſum not exceeding fifty dollars, for ex officio ſervices, out of any money in the treaſury of their county not otherwiſe appropriated.

3. *Be it enacted*, That no conſtable ſhall take or receive more than at the rate of five per cent. on the amount of any execution by him collected; nor ſhall any ſheriff or conſtable take or receive the fees on executions uſually called the levying fees, unleſs ſuch levy has actually been made.

4. *Be it enacted*, That the ſeveral ſheriffs ſhall be entitled to the levying fee of fifty cents in collecting taxes, where ſuch ſheriff ſhall have to go to the houſe, or may have levied on the property of the perſon liable to pay taxes, after the time ſhall have elapſed for payment as heretofore eſtabliſhed by law.

5. *Be it enacted*, That the ſeveral ſheriffs ſhall be entitled to, and may receive for collecting money on executions, at the rate of four dollars for every hundred, where the amount of the principal by the judgment, does not exceed one hundred dollars; at the rate of three dollars for every hundred dollars over one hundred dollars, and not exceeding three hundred dollars; and at the rate of two dollars for every hundred dollars over three hundred dollars.

CHAP. X.

An act to ratify and confirm an act of Congreſs of the United States of America, entitled, "An act to authoriſe the ſtate of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame."

WHEREAS the United States in Congreſs aſſembled, on the eighteenth day of April, in the year of our Lord one thouſand eight hundred and ſix, paſſed an act, entitled, "An act to authoriſe the ſtate of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame." In the words following to wit:

An act to authoriſe the ſtate of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame.

1. *Be it enacted by the Senate and Houſe of Repreſentatives of*

the United States of America, in Congreſs Aſſembled, That for the purpoſe of defining the limits of the vacant and unappropriated lands in the ſtate of Tenneſſee, hereafter to be ſubject to the ſole and entire diſpoſition of the United States, the following line be, and hereby is eſtabliſhed, to wit: Beginning at the place where the eaſtern or main branch of Elk river ſhall interſect the boundary line of the ſtate of Tenneſſee; from thence running due north, until ſaid line ſhall interſect the northern or main branch of Duck river; thence down the waters of Duck river, to the military boundary line, as eſtabliſhed by the ſeventh ſection of an act of the ſtate of North Carolina, entitled, "An act for the relief of the officers and ſoldiers of the continental line, and for other purpoſes," (paſſed in the year one thouſand ſeven hundred and eighty three,) thence with the military boundary line, weſt, to the place where it interſects the Tenneſſee river; thence down the waters of the river Tenneſſee, to the place where the ſame interſects the nothern boundary line of the ſtate of Tenneſſee.

2. *And be it further enacted,* That upon the ſenators and repreſentatives from the ſtate of Tenneſſee, by an inſtrument ſigned and ſealed by them reſpectively, making known, that in purſuance of the power in them veſted by an act of the general aſſembly of the ſtate of Tenneſſee, entitled, "An act to appoint agents to ſettle the diſpute between this ſtate and the United States, relative to the vacant and unappropriated lands within this ſtate, and to procure the relinquiſhment of the claim of the United States to the ſame;" and by a reſolution of the ſenate and houſe of repreſentatives of the ſaid ſtate of Tenneſſee, paſſed in the year one thouſand eight hundred and two, as inſtructions therein, they do, for, and in behalf of the ſtate of Tenneſſee, and in conſideration of the proviſions made in this act, agree and declare, that all right, title and claim which the ſtate of Tenneſſee hath to the lands lying weſt and ſouth of the lines herein before eſtabliſhed, within the limits of the ſtate of Tenneſſee, ſhall thereafter forever ceaſe, and that the lands aforeſaid ſhall be and remain at the ſole and entire diſpoſition of the United States, and ſhall be exempted from every diſpoſition or tax made by order, or under the authority of the ſtate of Tenneſſee. while the ſame ſhall remain the property of the United States, and for the term of five years after the ſame ſhall be ſold; which ſaid inſtrument ſhall be approved by the ſenate of the United States, and entered at large in their journal, and depoſited in the office of the ſecretary of ſtate. The United States do thereupon cede and convey to the ſtate of Tenneſſee, all right, title and claim which the United States have to the territory of the lands lying eaſt and north of the line herein before eſtabliſhed, within the limits of the ſtate of Tenneſſee, ſubject to the ſame conditions as are contained in the act of the general aſſembly of the ſtate of North Carolina, entitled, "An act for the purpoſe of ceding to the United States of America, certain weſtern lands therein deſcribed," and the ſaid ſtate of Tenneſſee ſhall thereupon have as full power and authority to iſſue grants and perfect titles to all lands lying eaſt and north of the before de-

ſcribed line, within the limits of the ſaid ſtate, as congreſs now have, or the ſtate of Tenneſſee might have by virtue of an act of the ſtate of North Carolina, entitled, "An act to authoriſe the ſtate of Tenneſſee to perfect titles to lands reſerved to this ſtate by the ceſſion act," to which ſaid act the aſſent of congreſs is hereby given, ſo far as is neceſſary to carry into effect the object of this compact; ſubject nevertheleſs, to the following expreſs conditions, that is to ſay:

Firſt. That all entries for land, rights of location, and warrants of ſurveys, and all interfering locations which might be removed by the aforeſaid act of ceſſion of the ſtate of North Carolina, and which are good & valid in law, and which were not actually located weſt and ſouth of the herein before deſcribed line, before the twenty fifth day of February, one thouſand ſeven hundred and ninety; and all interfering grants which are good and valid in law, and which have been located eaſt and north of the ſaid line, ſhall be located, and the titles thereto perfected within the territory hereby ceded to the ſtate of Tenneſſee.

Secondly. That the ſtate of Tenneſſee ſhall appropriate one hundred thouſand acres, which ſhall be located in one entire tract within the limits of the lands reſerved to the Cherokee Indians, by an act of the ſtate of North Carolina, entitled, "An act for opening the land office for the redemption of ſpecie and other certificates, and diſcharging the arrears due to the army," paſſed in the year one thouſand ſeven hundred & eighty-three, and ſhall be for the uſe of two colleges, one in Eaſt, and one in Weſt Tenneſſee, to be eſtabliſhed by the legiſlature thereof; and one hundred thouſand acres in one tract, within the limits laſt aforeſaid, for the uſe of academies, one in each county in ſaid ſtate, to be eſtabliſhed by the legiſlature thereof; which ſaid ſeveral tracts ſhall be located on lands to which the Indian title has been extinguiſhed, and ſubject to the diſpoſition of the legiſlature of the ſtate, but ſhall not be granted or ſold for leſs than two dollars per acre, and the proceeds of the ſales of the lands aforeſaid, ſhall be veſted in funds for the reſpective uſes aforeſaid, forever; and the ſtate of Tenneſſee ſhall moreover, in iſſuing grants and perfecting titles, locate ſix hundred and forty acres to every ſix miles ſquare in the territory hereby ceded, where exiſting claims will allow the ſame, which ſhall be appropriated for the uſe of ſchools for the inſtruction of children forever: *Provided*, that nothing contained in this act ſhall be conſtrued as to affect the Indian title, or to ſubject the United States to the expence of extinguiſhing the ſame: *And provided alſo*, that the loweſt price of lands granted or ſold within the ceded territory, ſhall be the ſame as ſhall be eſtabliſhed by congreſs for the lands of the United States: *And provided nevertheleſs*, that the people reſiding in ſaid ſtate; ſouth of French Broad and Holſton, and weſt of Big Pigeon rivers, provided for by the conſtitution of the ſtate of Tenneſſee, ſhall be ſecured in their reſpective rights of occupancy and preemption, and ſhall receive titles for ſuch quantities as they may reſpectively claim, including their improvements, not exceeding ſix hundred and forty acres each, not exceeding the quantities they have heretofore claimed reſpectively, according to their conditional lines, where ſuch have been eſtabliſhed, at a price not leſs than one dollar per acre: *And provided further,* that nothing herein contained ſhall be conſtrued to enable any perſon or perſons until authoriſed by the legiſlature of the ſtate of Tenneſſee to locate any warrant iſſued under the authority of the ſtate of North Carolina, within the limits of the lands reſerved to the Cherokee Indians, by the ſifth ſection of the act of ſaid ſtate, entitled "An act for opening the land office for the redemption of ſpecie and other certificates, and diſcharging the arrears due to the army," paſſed in the year one thouſand ſeven hundred and eighty-three.

3. *And be it further enacted,* That if the territory hereinbefore ceded to the ſtate of Tenneſſee, ſhall not contain a ſufficient quantity of land fit for cultivation, according to the true intent and meaning of the orginal act of ceſſion, including the lands within the limits reſerved by the ſtate of North Carolina to the Cherokee Indians, to perfect all exiſting legal claims charged thereon, by the conditions contained in this act of ceſſion, congreſs will hereafter provide by law for perfecting ſuch as cannot be located in the territory aforeſaid, out of the lands lying weſt or ſouth of the before deſcribed line.

NATHL. MACON, Speaker
of the House of Repreſentatives.
S. SMITH, Preſident
of the Senate, pro tem.

Approved—April 26th, 1806.
TH: JEFFERSON.

THEREFORE, *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That the ſame herein before recited act, be, and the ſame is hereby accepted, ratified, and confirmed to all intents and purpoſes, by and on the part of the ſtate of Tenneſſee, and that the proviſions thereof be carried into effect.

CHAP. XV

An act authoriſing the taxing of certain lands to which the Indian title has been lately extinguiſhed.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the firſt day of January next, and each ſucceeding year, all lands to which the Indian title has been extinguiſhed, either by the late treaty concluded with the Cherokees at or near Tellico, or the treaty concluded with the Chickaſaws, in the Chickaſaw nation, held by grant, deed or entry, legacy, deſcent, leaſe or right of dower, ſhall be liable to taxation in the ſame manner as all other lands within this ſtate to which the Indian title has heretofore been extinguiſhed, and ſhall be returned annually for taxation, and the tax collected and accounted for, under the ſame rules and reſtrictions all other public taxes are; and the ſame rules of taxation ſhall apply to every ſpecies of taxable property and polls that may be found on either of the ſaid purchaſes ; any law to the contrary notwithſtanding.

CHAP. XVII.

An act to prevent citizens of other ſtates from driving ſtock on the lands of the citizens of this ſtate.

Whereas it is repreſented to this general aſſembly that divers perſons, inhabitants of Kentucky, who have no lands in this ſtate, make a practice of driving horſes, cattle, and hogs, to winter and range on the lands of the citizens of this ſtate :

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That hereafter no perſon or perſons whatſoever, inhabitants of any other ſtate, having no land in this ſtate, ſhall preſume to drive, lead, tranſport, or in any manner convey any horſes, cattle or hogs, to winter or range on the lands of any citizen of this ſtate, under the penalty of two dollars for each head ſo driven to be recovered by warrant before any juriſdiction having cognizance thereof, by any perſon who will ſue for the ſame to be applied to his own uſe.

2. *Be it enacted*, That no perſon or perſons whatſoever inhabitants of this ſtate, ſhall give leave under any pretence, to an inhabitant of any other ſtate, to drive ſtock of any deſcription to winter or range on their land, unleſs he, ſhe, or they keep ſuch ſtock within the bounds of their own land ; and in all caſes of a breach of the above recited act, the perſon complaining may have his remedy by attachment as in other caſes : *Provided*, that nothing herein contained ſhall be ſo conſtrued as to authoriſe one inhabitant to attach the property of another ; any thing to the contrary notwithſtanding.

CHAP. XXXII.

An act to amend the law in force and uſe concerning free negroes, mulattoes and ſlaves.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That from and after the paſſing of this act, every free negro or mulattoe, who reſides in any county in this ſtate, ſhall be regiſtered and numbered in a book to be kept for that purpoſe, by the clerk of the court of ſaid county, which regiſter ſhall ſpecify the age, name, colour and ſtature of ſuch free negro or mulattoe, together with any apparent mark or ſcar, on his or her face, head, or hands, and in what court, or by what authority he or ſhe was emancipated, or that ſuch negro or mulattoe was born free ; a copy of ſuch regiſter, certified by the clerk, & atteſted by a juſtice of the peace of the county wherein ſuch regiſter ſhall be made, ſhall be delivered to the ſaid negro or mulattoe on application, for which copy the clerk may demand and receive the ſum of twenty five cents.

3. *Be it enacted,* That riots, routs, unlawful aſſemblies, treſpaſſes, and ſeditious ſpeeches by a ſlave or ſlaves, or any inſulting or provoking language uſed by ſuch ſlave or ſlaves to any white perſon, ſhall be puniſhed by ſtripes at the diſcretion of a juſtice of the peace, and he or they who will, may apprehend and carry him, her or them before ſuch juſtice.

4. *Be it enacted,* That if any white perſon, free negro or mulattoe, ſhall at any time be found in company with ſlaves at any unlawful meeting or ſhall harbor or entertain any ſlave, without the conſent of his or her owner, ſuch perſon being thereof convicted, ſhall forfeit and pay a ſum not exceeding twenty dollars, nor leſs than ten dollars for every ſuch offence to be applied to the uſe of the poor in the county where ſuch conviction ſhall take place.

5. *Be it enacted,* That it ſhall be the duty of each captain of every militia company in this ſtate, as often as they may deem it neceſſary, to appoint patroles to act within the bounds of their reſpective companies; and ſuch patroles when appointed, ſhall have power to ſearch all negro houſes and ſuſpected places within the bounds of their company, and every negro ſlave found at any ſuch place, or off his owners plantation in the night time, without a paſs in writing, from his or her maſter, miſtreſs, or owner, ſhall receive on his or her bare back, fifteen ſtripes well laid on, under the direction of ſuch patrole; and every free negro or mulattoe, ſo as aforeſaid taken up at unlawful hours, or in company of any ſlave or ſlaves, ſhall receive the like puniſhment: The captains of their reſpective companies ſhall ſo lay off to each patrole by them appointed, ſuch bounds as he may deem proper, ſo that a patrole may be on duty as often as circumſtances may require.

6. *Be it enacted,* That it ſhall be the duty of the commiſſioners of every town in this ſtate, to appoint patrolers of their reſpective towns, for the purpoſe of ſearching all negro houſes and other ſuſpected places, where they may have reaſon to believe there may be any negro or mulattoe concealed in the night time, or on a viſit to ſuch place, contrary to the true intent and meaning of this act; and ſuch patrolers when appointed, ſhall have power to ſearch all negro houſes and ſuſpected places within two miles of ſaid town, and every negro or ſlave found at any ſuch place, or off his owners plantation in the night time, ſhall receive on his or her bare back not more than fifteen ſtripes, well laid on, under the direction of ſuch patrole: and every free negro and mulattoe, ſo as aforeſaid taken up at unlawful hours, or in company of any ſlave or ſlaves, ſhall receive the like puniſhment.

7. *Be it enacted,* That the commiſſioners of each town ſhall ſo lay off their reſpective towns, that a patrole may be on duty every night; and where from the fewneſs of the citizens of any town, it ſhall be impracticable, they ſhall ſo order that a patrole may be on duty as often as circumſtances will require.

8. *Be it enacted,* That every perſon appointed a patroler by virtue of this act, whether the ſame be within a town or in the country, and on being notified thereof in writing by the board

of commiſſioners, or captain of a company as the caſe may be, and ſhall fail, refuſe, or neglect to perform ſtrictly the duties of ſuch appointment, ſhall, for every ſuch offence, forfeit and pay the ſum of five dollars, to be applied, if in the country, towards leſſening the county tax, and if in the town towards repairing the ſtreets thereof, and to be recovered by warrant in the name of the chairman of the board of commiſſioners for ſaid town, or in the name of the captain of ſuch militia company, as the caſe may be.

9. *Be it enacted*, That all forfeitures and penalties mentioned in this act, where no ſpecific remedy is pointed out for the recovery thereof, ſhall be ſued for by any perſon whatever, and before any juriſdiction having cognizance thereof, one half to the uſe of ſuch perſon, and the other to the county, and applied to the leſſening of the county tax.

CHAP. XXXVIII.

An act to order the tranſcribing certain Entries or Documents therein mentioned.

WHEREAS it is repreſented to this general aſſembly, that the entry book formerly kept by Samuel Barton, eſquire, wherein the preemptions & commiſſioners guard rights were entered, is in a very ruinous ſituation, and as it is eſſentially requiſite that they ſhould be preſerved :

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That Andrew Ewing, eſquire, be, and he is hereby authoriſed to proceed immediately to take a fair, legible, and accurate tranſcript of the book of entries formerly kept by Samuel Barton, wherein the preemptions and commiſſioners guard rights were entered ; for the taking of which tranſcript, he, the ſaid Andrew Ewing, ſhall be allowed the ſum of ſixty dollars, to be paid him by the treaſurer of Mero diſtrict, upon a warrant ſigned by the governor.

2. *Be it enacted*, That the ſaid Andrew Ewing, before commencing ſaid tranſcript, ſhall take an oath before ſome juſtice of the peace, faithfully and accurately to tranſcribe the ſame.

3. *Be it enacted*, That David M'Gavock be, and he is appointed a commiſſioner to collate the ſaid tranſcript with the original, after the ſame may be ſo tranſcribed, with the ſaid Andrew Ewing, which commiſſioner ſhall be allowed the ſum of two dollars per day, to be paid him by the treaſurer of Mero diſtrict, upon a warrant ſigned by the governor, who is hereby authoriſed to iſſue the ſame, upon the claim of the ſaid commiſſioner being preſented to him, certified by the ſaid Andrew Ewing.

4. *Be it enacted*, That the ſaid Andrew Ewing ſhall make a complete index to ſaid tranſcript, and that the ſaid tranſcript and index thereto, when ſo completed, and collated with the original as aforeſaid, ſhall be conſidered as legal and valid as the original, and any copy taken therefrom, ſhall be received

as evidence in the ſame manner as a copy from the original might have been ; any law to the contrary notwithſtanding.

5. *Be it enacted*, That the ſaid tranſcript, after it is finiſhed as contemplated by this act, ſhall be and remain in the office of the ſaid Andrew Ewing, as clerk of the county of Davidſon, who is hereby required to preſerve the ſame, and grant copies of any entries that may be therein, to any perſon demanding the ſame, upon the applicant's paying to him the ſum of twenty five cents, for any ſuch copy.

CHAP. XL.

An act in addition to an act, paſſed on the firſt day of November, eighteen hundred and five, entitled, "An act for the regulation of regiſters offices, &c." paſſed the preſent ſeſſion of the general aſſembly.

WHEREAS it appears that ſundry of the regiſters of this ſtate, when an inſtrument was given them for regiſtration, only regiſtered the inſtrument neglecting the probate or acknowledgment of the execution of the ſame, and as a copy from ſuch records, without ſuch probate or acknowledgment, cannot be received in evidence. Therefore :

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That any perſon who may have been appointed by any court for the purpoſe of tranſcribing the records of that county, it ſhall be their duty, when they may find any inſtrument which hath been regiſtered on the original books, without the probate or acknowledgment, to leave in the tranſcript by them taken, ſufficient room to record the probate or acknowledgment of ſuch inſtrument.

2. *Be it enacted*, That any perſon who may have any inſtrument regiſtered, and the probate or acknowledgment has been neglected as aforeſaid, may produce his ſaid inſtrument to the tranſcriber when tranſcribing or to the regiſter after the tranſcript is left in his office, and have the ſame entered of record ; and it is hereby made the duty of ſaid tranſcriber or regiſter, to record the ſame.

3. *Be it enacted*, That where the original inſtrument may have been loſt, and the party claiming under it may wiſh to have the probate or acknowledgment entered of record it ſhall and may be lawful for ſuch claimant or grantee to apply to the clerk of the county wherein the probate was taken, (and after making oath that the ſaid inſtrument was loſt previous to the paſſage of this act, before the ſaid clerk) and receiving from ſuch clerk a certificate of ſuch probate or acknowledgment, for which ſaid clerk ſhall receive twelve and one half cents, and preſent the ſaid certificate to the tranſcriber or regiſter (as the caſe may be) who is hereby required to record the ſame, in the blank left as by this act directed ; and any ſuch probate or acknowledgment, certified and entered of record as aforeſaid, ſhall authoriſe a copy from ſaid records to

be received in evidence, in as complete and ample a manner, as if the ſame had been taken from the original.

4. *Be it enacted,* That when the records of any regiſter's office may be in the poſſeſſion of any perſon appointed to tranſcribe, as contemplated by the above recited act, it ſhall and may be lawful for ſuch tranſcriber, upon application to him made, to grant copies of any inſtrument that may be recorded in any book in his poſſeſſion, and certify the ſame ; which copy ſo taken and certified, ſhall be received in evidence, in as complete a manner as if the ſame had been given by the regiſter ; and the ſaid tranſcriber ſhall be entitled to the ſame fees as regiſters for ſuch copies ; any law to the contrary notwithſtanding.

CHAP. XLVI.

An act to compel the attendance of witneſſes on references and other caſes, and jurors in particular caſes.

WHEREAS it appears that great inconveniences ariſes to many of the good citizens of this ſtate, for want of lawful means to compel the attendance of witneſſes in caſes referred to referees. Therefore :

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That in all caſes that are now pending, or that may hereaftear be pending in any court in this ſtate, ſhall or may be referred by rule of ſaid court to referees, it ſhall and may be lawful for the parties letigant, to apply to the clerk of the court in which ſuch caſe may be pending, or to the juſtice before whom it is returned, (as the caſe may be) for a ſubpœna for ſuch witneſſes as they may deem neceſſary, to compel their attendance ; and the officer ſerving the ſame, ſhall be entitled to the ſame fees as for ſimilar ſervices ; and the witneſſes ſo attending ſhall receive the ſame pay, and be paid in the ſame manner as witneſſes attending in like caſes before a court or juſtice, and ſhall be ſubject to the ſame penalties for non-attendance.

2. *Be it enacted,* That when any perſons who have or may have any matter in diſpute, which they wiſh to refer or arbitrate, it ſhall and may be lawful for either party to apply to any juſtice of the peace in the county where ſuch diſpute may ariſe, for a ſubpœna for ſuch witneſſes as they may require ; and it ſhall be the duty of any conſtable of the county where ſuch witneſſes may reſide, to execute and make return thereof, and the witneſſes ſhall receive the ſame pay, to be paid by the party againſt whom the award may be made ; and they ſhall be ſubject to the ſame penalties for non-attendance as in ſimilar caſes ; and the officer ſummoning ſuch witneſs ſhall receive the ſame fees as for ſummoning witneſſes to attend before a juſtice of the peace.

3. *Be it enacted,* That in all caſes of a trial before a jury on the premiſes, or on an arbitration to be had under the proviſions of an act, entitled, " An act providing for the ſale of lands

ſouth of Holſton and French Broad, agreeable to the conſtitution of this ſtate, and the proviſions of an act of congreſs therein referred to," that it ſhall be lawful for the contending parties to apply to any juſtice of the peace in the county where the land lies, ſo in diſpute, for a ſubpœna for ſuch witneſſes as they may require, which ſummon ſhall be ſerved by the ſame officers, paid in the ſame manner, and ſubject to the ſame penalties as herein before provided in other caſes, under the authority of this act.

4. *Be it enacted*, That if any juror ſhall fail to attend at the time and place he ſhall be ſummoned, according to the proviſions of the laſt recited act, the ſheriff ſhall make return thereof to the next county court, and ſuch juror ſhall be liable to the ſame forfeitures and penalties, and proceeded againſt in the ſame manner that jurors are in the county courts; and on failure to attend of jurors to complete a jury as by ſaid act authoriſed, the ſheriff may ſupply ſuch deficiency of the byſtanders, or he may continue the trial to a different day.

CHAP. XLVIII.

An act to regulate and fix the times of holding the courts of the different counties compoſing the diſtricts of Wincheſter and Robertſon, and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the courts of Sumner county, after the firſt day of December next, ſhall commence on the ſecond Monday of December, March, June and September, and may continue twelve juridical days each term, until the end of the next general aſſembly.

CHAP. XLIX.

An act to compel ſubſcribing witneſſes to deeds of conveyances and other inſtruments of writing to attend court and prove the execution thereof, and for other purpoſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That all perſons now holding, or that may hereafter hold any deed or deeds of conveyance, mortgage, deed of truſt, bill of ſale, letter of attorney, releaſe, or any other inſtrument of writing, that now are, or hereafter may be required by law to be regiſtered, ſhall and may, at his her or their own expence, on application to the clerk of the county court where ſuch inſtrument by law ought to be regiſtered, obtain a ſummon for any number of ſubſcribing witneſſes thereto, competent to authenticate any of ſaid inſtruments for regiſtration; which ſhall be ſigned by the clerk, and directed to the ſheriff of the county wherein ſuch witneſs or witneſſes may reſide, commanding him to ſummon ſuch witneſſes to appear at the next county court, and give his, her, or their evidence

concerning the execution of ſuch deed or other inſtrument of writing, under the penalty of two hundred dollars, to be recovered in the ſame manner that forfeitures are directed to be recovered againſt witneſſes who have been ſummoned to attend in other caſes, but who fail to attend.

2. *Be it enacted,* That witneſſes attending under the authority of this act, ſhall be entitled to, and receive the ſum of ſeventy five cents per day, for each day's attendance, and the like ſum for every thirty miles travelling to and from the place at which they are required to attend: *Provided*, that no milage be allowed to any perſon who lives within the county where ſaid inſtrument is to be proven.

3. *Be it enacted,* That any deed of conveyance made or executed hereafter, the execution of which is eſtabliſhed by the acknowledgment of the party executing the ſame, ſhall take effect only form the date of ſuch acknowledgment, for the purpoſe of admiſſion to regiſtration.

CHAP. LIV.

An act reſpecting the reſignation of Juſtices of the Peace.

WHEREAS by the exiſting laws of this ſtate, it is made the duty of the ſeveral clerks of the county courts upon certain papers being preſented to them, ſigned by any juſtice of the peace in their reſpective counties, to certify that the ſaid juſtice, was at the time of ſigning the ſame, an acting juſtice. &c. and from the cuſtom or practice heretofore, of juſtices ſending their reſignations to the legiſlature or executive, without the knowledge of the clerk, he, in many inſtances, might commit himſelf by ſuch certificate, For remedy whereof:

Be it enacted by the General Aſſembly of the State of Tennessee, That from and after the firſt day of October next, any juſtice of the peace within this ſtate, who may wiſh to reſign, ſhall make ſuch reſignation to the court of the county of which he may be a juſtice; which court, ſhall upon ſuch reſignation being mande to them, order their clerk to make a record thereof, and afterwards to tranſmit a certified copy of ſuch order to the next ſeſſion of the legiſlature; any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. LV.

An act ſupplementary to an act for the inſpection of Tobacco, paſſed October 26th, 1799; alſo, ſupplementary to an act to prevent the exportation of unmerchantable commodities paſſed November the fourteenth, eighteen hundred and one.

2. *Be it enacted,* That in future all caſks and hogſhead made for the purpoſe of packing and prizing tabacco in, ſhall not exceed fifty two inches in length, and thirty four inches diameter in the head; any thing to the contrary notwithſtanding.

CHAP. LVI.

An act to repeal part of an act, entitled, "an act for the relief of inſolvent debtors," with reſpect to the impriſonment of their perſons, paſſed by the legiſlature of the ſtate of North-Carolina, 1773.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That ſo much of the above recited act as forever diſcharges the inſolvent debtor, of, and from the payment of the debt and coſts for which he was ſued and impriſoned, be, and the ſame is hereby repealed; and that from and after the paſſage of this act, the eſtate of the ſaid inſolvent debtor, which he ſhall acquire thereafter, ſhall be and at all times remain liable to the payment of the plaintiff's demand; *Provided nevertheleſs,* that the body of ſaid inſolvent debtor ſhall not be taken in execution a ſecond time for the ſame debt.

CHAP. LVII.

An act to repeal the ſecond ſection of an act, ſupplementary to an act, "to amend the law now in force for ſelling lands under execution," paſſed October the 26th, 1799.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That ſo much of the ſecond ſection of the before recited act, as compels a plaintiff to levy his execution and ſell within twelve months from the time he obtains judgment, or his execution will be forever barred, is hereby repealed, ſo far as reſpects lands that then laid within the Indian boundary; any thing to the contrary notwithſtanding.

1807

LAWS OF TENNESSEE.

Paſſed at the firſt ſeſſion of the ſeventh General Aſſembly began at Kingſton, on Monday the twenty-firſt day of September, and continued by adjournment to Knoxville, on Wedneſday the twenty-third, one thouſand eight hundred and ſeven.

CHAP. I.

An act to ſuſpend certain ſections of an act, entitled, " An act directing the diviſion of the State into convenient diſtricts, for the appointment of principal ſurveyors thereof, and for aſcertaining the bona-fide claims againſt the ſame, agreeable to an act of Congreſs, paſſed the eighteenth day of April, one thouſand eight hundred and ſix, entitled, " An act to authorize the State of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame," paſſed at Knoxville, the twelfth day of September, one thouſand eight hundred and ſix.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee,* That the twentieth, twenty-fifth, twenty-ſixth, thirty-fourth, thirty-ſixth, forty-eighth, and fifty-third ſections of the before recited act, and all proceedings under them or either of them, ſhall be, and hereby are ſuſpended, until the expiration of the preſent ſeſſion of the General Aſſembly.

2. *Be it enacted,* That it ſhall not be lawful for any perſon or perſons whatever, until the expiration of the time aforeſaid, to make an entry of, or obtain a ſurvey or grant for any piece or parcel of land for which any other perſon or perſons hath heretofore obtained a grant from the State of North-Carolina, which appears on the face thereof to be fair and honeſt, whether ſuch grant ſhall have been regiſtered within the time aforeſaid, to make entry of, obtain a ſurvey or grant for any piece or parcel of land to which any other perſon or perſons, had a preference given him or them, by any act or acts of the General Aſſembly of this State, although ſuch time of preference may have elapſed. And if any ſuch entry, ſurvey or grant, ſhall be made, or obtained, until the expiration of the time aforeſaid, by any perſon or perſons whatever, the ſame ſhall be null and void to all intents and purpoſes both at law and equity.

3. *Be it enacted,* That this act ſhall take effect and be in force from and after the paſſage thereof.

CHAP. II.

An act to amend an act entitled, "an act directing the diviſion of the State into convenient diſtricts; for the appointment of principal ſurveyors thereof, and for aſcertaining the bona-fide claims againſt the ſame, agreeable to an act of Congreſs, paſſed the eighteenth day of April, one thouſand eight hundred and ſix, entitled, "An act to authorize the State of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame," and to point out the mode hereafter to be purſued in aſcertaining the unſatisfied claims, and in perfecting titles on the ſame.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That from and after the paſſing of this act, there ſhall be one Commiſſioner in Eaſt-Tenneſſee, and one in Weſt-Tenneſſee who ſhall be appointed by joint ballot of both Houſes of this General Aſſembly, for the purpoſe of judging and aſcertaining the validity of warrants and other legal evidencies of unſatisfied claims to lands within this State, which by this act are to be perfected into grants, under the proviſions of an act of the State of North Carolina, entitled, "An act for the purpoſe of ceding to the United States of America, certain weſtern lands therein deſcribed," and of an act of the Congreſs of the United States, entitled, "An act to authorize the State of Tenneſſee to iſſue grants and perfect titles to certain lands therein deſcribed; and ſettle the claims to the vacant and unappropriated lands within the ſame." It ſhall be the duty of the Commiſſioner for Eaſt-Tenneſſee, to ſit at Knoxville, on the ſecond Monday of December; and of the commiſſioner for Weſt-Tenneſſee, to ſit at Naſhville, on the firſt Monday of January next: Each commiſſioner ſhall appoint his own clerk, who, and each ſucceeding clerk, ſhall take the ſame oath, give the ſame bond and ſecurity, and be liable to the ſame penalties heretofore preſcribed by law, upon the death, reſignation or removal of either of ſaid clerks, the commiſſioner ſhall have power to appoint a clerk in the place of the one deceaſed, reſigned or removed.

2. *Be it enacted*, That each of ſaid Commiſſioners ſhall ſit once in every three months.—The commiſſioner for Eaſt-Tenneſſee at Knoxville; and the commiſſioner for Weſt-Teneſſee at Naſhville; and at each ſeſſion, each commiſſioner ſhall continue to ſit until he has determined on every claim before him which is ready for adjudication.

3. *Be it enacted*, That it ſhall be the duty of each of the clerks aforeſaid, to file in his office, in regular files, all warrants and other evidence of claims to lands, which may be exhibited by any perſons deſiring a deciſion on the ſame, during the time ſaid Commiſſioner is in ſeſſion; and ſhall number the ſame in the order in which they were preſented. And he ſhall enter in a book, to be by him kept for that purpoſe,

full and correct minutes of the proceedings and deciſions of the ſaid commiſſioner in determining on any claim, and whether ſuch claim be good and valid or otherwiſe; and he ſhall preſerve ſaid record until the proviſions of this act are complied with, and then deliver the ſame to the regiſter of the Land-Office for the diſtrict in which he may act.

4. *Be it enacted*, That any perſon or perſons, or the legal repreſentatives of any perſon or perſons, or the rightful aſſignee of any of ſaid perſons, for whom, or for whoſe uſe, an entry was made for any lands within this ſtate, in any office eſtabliſhed by the laws of North-Carolina, which were not actually located weſt and ſouth of the line as deſcribed in the firſt ſection of the act of the Congreſs of the United States, herein before refered to on or before the twenty fifth day of February, one thouſand ſeven hundred and ninety, and which ſaid entries, by the laws of North-Carolina, were good and valid, and on which a warrant iſſued, or which ſaid entry or entries were founded on a good and valid warrant, (as the caſe may be.) and on which no grant or grants ever iſſued by the ſtate of North-Carolina, ſhall be entitled to receive a grant from this ſtate, for ſuch quantity of land is called for in each of ſuch entries reſpectively: And if the calls of ſuch entry or entries are not deſignated in ſuch manner, that the ſame can be identified, or if the land called for in any ſuch entry, hath been taken by any prior entry, covering the ſame land or any part thereof, ſuch claimant or claimants, or their legal repreſentatives, may be at liberty to remove and enter the ſaid warrant or ſuch part thereof, as may have been taken by ſuch prior entry, in any office by this act eſtabliſhed for receiving entries.

5. *Be it enacted*, That any perſon or perſons, their legal repreſentatives or the rightful aſſignees of ſuch perſon or perſons, who may have fairly and bona-fide obtained from the ſecretary's office of North-Carolina, any warrant for military ſervices, which by the laws of North-Carolina, was good and valid, or who may have procured a warrant or warrants for ſervices performed as a commiſſioner, ſurveyor, or other perſon, who accompanied the commiſſioners appointed to lay off the lands for the continental officers and ſoldiers, or who may have procured a warrant or warrants, under an act of the ſtate of North-Carolina, entitled, "An act for raiſing troops for the protection of Davidſon county," or who may have obtained a warrant or warrants for pre-emption rights, which warrants were good and valid by the laws of North-Carolina, ſuch perſon or perſons ſhall be entitled to a grant or grants from this ſtate for the quantity of land called for in ſaid warrants reſpectively: *Provided*, no grant ſhall have been heretofore iſſued on ſuch warrant or warrants, or a duplicate thereof, by the State of North-Carolina.

6. *Be it enacted*, That any perſon or perſons, or the legal repreſentatives of ſuch perſon or perſons, or the rightful aſſignee of ſuch perſon or perſons, to whom a grant may have iſſued from the ſtate of North-Carolina, on a warrant, which by the laws of North-Carolina, was good and valid, and

which is taken by the inference of a grant of better title, iſſued from the ſtate of North-Carolina, for the ſame land, or for any part thereof, ſhall be entitled to obtain a grant from this ſtate for the ſame quantity of land called for in ſuch grant of younger title: *Provided*, the whole of ſaid grant be covered by ſuch grant of better title; and if only a part thereof be covered, he ſhall be entitled to a grant for whatever quantity of acres may be deficient, after deducing from the whole quantity called for in ſaid younger title, the number of acres which may remain uncovered by ſuch grant of better title.

7. *Be it enacted*, That any perſon or perſons, or the legal repreſentatives of any perſon or perſons, or the rightful aſſignee of ſuch perſon or perſons, to whom a grant or grants may have iſſued from the ſtate of North Carolina, on a good and valid warrant, the locality of which ſaid grant cannot be aſcertained, on account of the vagueneſs of the calls by the ſurveyor, or from the calls and corners of ſaid ſurvey becoming loſt or deſtroyed, or on account of the ſurveyor and chain-carriers being deceaſed, ſo that the marks and corners connot be eſtabliſhed, ſhall be entitled to obtain a grant for the ſame quantity of land called for in ſaid grant.

8. *Be it enacted*, That it ſhall be lawful for any perſon or perſons, or the legal repreſentatives of ſuch perſon or perſons, or their rightful aſſignees, who may have obtained a grant from the ſtate of North-Carolina, for any land ſouth of French Broad and Holſton or Tenneſſee and weſt of Big Pigeon rivers, or eaſt and north of the congreſſional reſervation, on any good and valid warrant, for which a bona fide conſideration was actually paid, and never refunded, and on which no other grant ever iſſued, to obtain a grant from this ſtate for the quantity called for in the warrant on which ſaid grant iſſued, in any part of this ſtate except within the tract of country ſouth of French broad and Holſton or Tenneſſee and weſt of Big Pigeon aforeſaid. And when any perſon is deſirous of procuring a title to any vacant land in conſequence of a grant having iſſued for lands in that tract herein before named, it ſhall be his duty to exhibit his grant to the commiſſioner of Eaſt Tenneſſee, within the time preſcribed by this act, and ſhall therewith adduce ſuch evidence as is required in ſimilar caſes, the ſaid warrant is good and valid, and that the conſideration thereof was actually paid and never refunded, and that no other grant hath iſſued on the ſame warrant or any duplicate thereof; and if ſaid commiſſioner adjudge his claim to be valid, he ſhall be entitled to a certificate in ſuch form as ſaid commiſſioner may deem proper.

WHEREAS it appears there is depoſited in the ſecretary's office of North Carolina, a file of military warrants, &c. accompanied with plats and certificates of ſurvey, marked No. 29, on which plats and certificates it is believed, no grants have been iſſued, which ſaid file was examined and copied by John Overton, Eſq. late agent from this ſtate to North Carolina,—Therefore,

9. *Be it enacted*, That it ſhall be lawful for each perſon for whom any of ſaid ſurveys was made, *Provided*, ſaid ſurveys

were made eaſt or north of the line deſcribed in the act of congreſs before referred to, on producing a tranſcript of the copy taken from the ſaid file by the agent aforeſaid, or other copies of ſaid warrants and plats and certificates of ſurvey, to obtain a grant from this ſtate for the ſame land called for in ſaid ſurveys; but ſhould it appear that ſaid land or any part thereof, hath been taken by any prior claim, in that caſe it ſhall be lawful for ſuch perſon to remove his ſaid warrant, or ſuch part thereof as hath been ſo taken—have the ſame located on, and obtain a grant therefor, on any vacant and unappropriated land within this ſtate, which by this act is intended to be granted: *Provided however*, that no grants ſhall have been previouſly iſſued on ſaid warrants or any duplicates thereof and that ſaid warrants be good and valid, the validity of which ſhall be aſcertained by the commiſſioner as in other caſes.

10. *Be it enacted*, That it ſhall and may be lawful for any perſon or perſons, or the legal repreſentatives of any perſon or perſons, or the rightful aſſignees of ſuch perſon or perſons, who may have obtained from the office of ſecretary of this ſtate, any warrant or warrants, which have not been heretofore adjudged by the board of commiſſioners for Eaſt or Weſt Tenneſſee, (as the caſe may be,) to file the ſame for adjudication; and it ſhall be the duty of ſaid commiſſioner to examine the validity of ſaid grant on which ſuch warrant iſſued, and of the warrant on which ſaid grant iſſued, and of the interfering grant, in the ſame manner, and under the ſame rules and reſtrictions as is provided by this act for examining other claims founded on enterfering grants; and if ſaid commiſſioner is of opinion ſaid claim is valid, he ſhall endorſe the ſame on ſaid warrant; and in caſe ſaid claimant is entitled to a part of ſaid warrant and not the full amount thereof, ſaid commiſſioner ſhall endorſe on ſaid warrant the quantity of acres for which the ſame is invalid, and ſhall ſign his name thereto as commiſſioner, and cauſe his clerk to atteſt the ſame; and ſhall cauſe his clerk to record ſuch warrant with the endorſement put thereon by the commiſſioner, and ſhall then deliver the ſaid warrant to the perſon or his repreſentatives, who may have filed the ſame, which ſhall entitle the party rightfully claiming the ſame to a grant for as many acres of land, as the ſaid warrant is adjudged valid for; and in caſe ſaid warrant is adjudged invalid, the ſaid commiſſioner, ſhall ſo endorſe thereon; and the ſaid valid warrant ſhall be filed with the clerk of the ſaid commiſſioner, and ſaid clerk ſhall record the ſame, together with the ſaid certificates in bound books, to be by him kept for that purpoſe, and ſhall make a duplicate of ſaid warrant, and ſhall inſert on ſaid duplicate a copy of every endorſement, transfer or other writing which appeared on the original, and then deliver ſuch duplicate to the perſon or his repreſentatives who filed the warrant for adjudication, which duplicate ſhall entitle the rightful owner thereof to a grant from this ſtate, for the ſame quantity of land ſpecified in ſaid duplicate.

11. *Be it enacted*, That from and after the paſſing of this act, the preference given in the thirty eighth ſection of the act

which this act is intended to amend, ſhall not extend to any caſe where any other perſon was ſettled on, and in actual poſſeſſion of the land entered, before and at the time of making the entry, in the county entry taker's office. And each and every perſon or perſons, their heirs or aſſigns, who may have made an entry or entries in any county entry taker's office, under the authority of an act entitled, "An act appointing ſurveyors and entry takers, and directing their duties in office," paſſed at Knoxville, November fourteenth, one thouſand eight hundred and one, on any warrant that hath been, or hereafter may be adjudged valid by the commiſſioners, ſhall be allowed the further time of two years to make his, her or their entry or entries for the ſame piece of ground in the office of the ſurveyor of the diſtrict where the land lies; or in the event, that the warrant on which any entry hath been made in the county entry taker's office as aforeſaid, ſhall be adjudged invalid, ſuch enterer ſhall have the preference of two years to enter the ſame agreeable to the proviſions of this act, and obtain a grant for the ſame as in other caſes, except in the caſe named in the foregoing part of this ſection; and that all perſons, their heirs or aſſigns, who may have made an entry or entries by virtue of a ſervice right as aſſignee of Martin Armſtrong or either of his deputies, in the military land office; and all and every perſon, their heirs or aſſigns, who have made an entry or entries in ſaid military land office, on a warrant or warrants which may have been or may hereafter be adjudged invalid by the proper authority, ſhall have a preference of two years to enter the ſame piece of ground by virtue of any good and valid warrant.

12. *Be it enacted,* That for the ſake of enabling ſaid commiſſioners to examine and aſcertain the validity of ſaid claims to land, and whether any grant or grants hath been heretofore obtained upon the ſame claim or claims, the ſaid commiſſioner ſhall uſe as evidence the following books, to wit: A copy of John Armſtrong's entry book, as tranſcribed by John Overton, Eſq. late agent to North Carolina, with the account and abſtract and all contained in the appendix made in ſaid copy of ſaid entry book by ſaid agent—The books made by ſaid agent, which contain copies of Carter's warrants on which grants have iſſued—The book procured from the office of the ſecretary of ſtate of the United States, which contains reports of the lands entered in Sullivan and Waſhington counties—The book which contains copies of the entries made in Hardin's office, which was tranſcribed by Samuel Love—The book which contains a copy of the entries made in the entry taker's office of Sullivan county; alſo, a book heretofore furniſhed the commiſſioners of Eaſt Tenneſſee, by John Adair, the correctneſs of which he has ſworn to before Joſiah Nichol, Eſq.—The books tranſcribed by ſaid agent to North Carolina, which contain copies of the military warrants iſſued by ſaid ſtate of North Carolina.—The entry book of the entry taker of Davidſon county, formerly put into the hands of Nathan Ewing, and now in the hands of the commiſſioners for Weſt Tenneſſee—The abſtracts formed by the late agent to North Carolina, relative to the claims of the

troops raiſed for the protection of Davidſon county, or a copy taken from them or either of them in caſe the ſame ſhould become neceſſary, and all other tranſcripts, documents and records taken by our ſaid agent or copies thereof if neceſſary: *Provided*, that ſaid books ſhall not by ſaid commiſſioners be viewed as concluſive evidence, but may be explained by teſtimony derived from other documents procured from the ſecretary's office of North Carolina, which furniſh convincing evidence of their incorrectneſs.

13. *Be it enacted*, That the tranſcript of the reports of Meſſrs. Gaither, Graham and Locke, taken from the journals of the ſenate of North Carolina, by our ſaid late agent John Overton, Eſq ſhall remain in the office of the ſecretary of this, as a record of the ſtate, and that the copies thereof, heretofore taken by the commiſſioners of Eaſt and Weſt Tenneſſee, ſhall hereafter be uſed by each of the commiſſioners named in this act, as evidence in caſes to which it apply. *Provided however*, that the ſame be not concluſive, in caſe any perſon exhibiting a claim, to which ſaid reports, or either of them has alluſion—can procure ſatisfactory proof that the ſame is a good and valid warrant, or claim, and obtained on a bona fide, conſideration to the ſtate; and that the ſaid commiſſioners ſhall in no caſe decide between two or more claimants of a warrant, which has the right, but ſhall in caſes where the warrant is adjudged good againſt the ſtate, deliver the ſame to the perſon or his legal repreſentatives, who ſhall or may have filed the ſame for adjudication.

14. *Be it enacted*, That from and after the paſſing of this act, it ſhall be the duty of each perſon who may be deſirous of obtaining a title to any land, in conſequence of a grant of better title covering the land called for in his patent, or any part thereof, to exhibit to the commiſſioner for the diſtrict in which ſuch land may be, the ſaid grant or a certified copy thereof, under which he claims title, together with the meſne conveyances veſting the title in himſelf, (if he be not the grantee), and alſo a copy of the entry on which the ſaid grant iſſued, if it did iſſue for the land ſpecially entered, together with the grant evidencing ſuch better title, and a copy of the entry on which ſuch grant iſſued, if it iſſued for the land ſpecially entered, or if the original grant cannot be had, a certified copy thereof, and alſo a connected plat of ſaid tract, ſhewing the interference, which plat ſhall be made from an actual ſurvey of ſaid interfering titles, made by ſome ſworn ſurveyor; and ſaid commiſſioner ſhall require the oath of ſaid ſurveyor to prove the facts reſpecting ſaid interferance, and the quantity of land which will be deficient of that called for in ſaid grant under which he claims, in conſequence of ſaid interferance of ſaid better title, which oath ſhall be adminiſtered by ſaid commiſſioner or ſome juſtice of the peace, and ſhall be endorſed on the back of ſaid plat, and be in the following form (viz.)

I A. B. do ſwear, that I have faithfully ſurveyed and meaſured every line of the grant of inferior title, and ſo much of the lines of the grant of better title, as has enabled me to aſcertain with accuracy the interference; and that the plat by be returned, contains a true repreſentation of the interference between the reſpective claims.

And the ſaid ſurveyor ſhall not be entitled to any other fees than fees for running the inferior title, and for the part taken by the better title, agreeably to the quantity, as in other caſes by law preſcribed in running new lands; and the ſaid claimant ſhall alſo produce to ſaid commiſſioners, ſuch other documents and evidences as is provided to prove to ſaid commiſſioners, and eſtabliſh the ſaid grant of younger title, and the warrant on which the ſame iſſued, and to prove that no other grant iſſued on the ſame warrant or a duplicate thereof, and to eſtabliſh the validity of ſaid grant of better title, and of the warrant on which the ſame iſſued, and that no other grant had ever iſſued on ſaid warrant or a duplicate thereof, previous to the iſſuing of ſaid grant of better title; and if ſaid claim be conſidered valid by ſaid commiſſioners (after taking into view the entries aforeſaid, where they exiſt, and all the other proof adduced) and ſufficient to entitle ſuch claimant, to a claim for as much land as is called for in his grant, or any leſſer quantity; it ſhall be the duty of ſaid commiſſioner to iſſue to ſaid claimant a certificate in the following form, which ſhall be ſigned by ſaid commiſſioner, and atteſted by the clerk, to wit:

This is to certify that A. B. is entitled to enter and obtain a grant for acres of land (within this ſtate) in conſequence of ſo much of a tract granted to by grant No. dated the day of which iſſued for acres, from the ſtate of North Carolina, being taken by the interference of grant No. dated of from ſaid ſtate, for acres, to Given under the hand of C. D. Commiſſioner for Eaſt or Weſt Tenneſſee, (as the caſe may be) this day of in the year C. D. Commiſſioner.

Atteſt—G. H. Clerk.

Provided, That the commiſſioner ſhall not in any caſe give any certificate where the quantity of land called for in the grant of inferior title, is contained within its bounds, after deducting the quantity taken by the better interfering title from the whole quantity contained within the bounds of the grant of inferior title.

15. *Be it enacted*, That it ſhall be the duty of the clerk to record in a book to be by him kept for that purpoſe, each certificate iſſued as aforeſaid, and the ſaid grant ſhall thereupon become void and of no effect, for whatſoever part ſaid certificate ſhall iſſue; and if ſaid certificate does not iſſue for as much land as is called for in ſaid grant, ſaid grant ſhall not be available in law, to enable the claimant to hold more land than ſhall be ſufficient, together with the quantity called for in ſaid certificate, to complete the quantity called for in ſaid grant. In all caſes where the claimant obtains a certificate to the full quantity of acres called for in ſaid grant, it ſhall be a duty of ſaid commiſſioners to have a complete copy of ſaid certificate endorſed on ſaid grant, and to detain and file the ſaid grant in the regiſter's office; and in all caſes where a certificate iſſues for only a part of the quantity of acres called

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for in ſaid grant, to have a complete copy of ſaid certificate endorſed on ſome part of ſaid grant, and if required, deliver the grant with ſaid endorſement to the perſon who preſented the ſame.

16. *Be it enacted,* That if any perſon or perſons ſhall hereafter be deſirous of obtaining a title to any land in conſequence of a grant having been iſſued for land, the locality of which cannot be identified for any of the reaſons herein before named, it ſhall be the duty of ſuch perſon or perſons, to advertiſe in ſome of the newſpapers publiſhed in this ſtate, 4 different times at leaſt, when, and to which commiſſioner he intends to apply for a certificate, and on account of what grant he intends making ſuch application, and therein ſhall ſpecify the number and date of ſuch grant—to whom granted, and for what number of acres, and how ſuch perſon or perſons derives his or their claim to ſaid grant; of which publications, commiſſioner muſt be ſatisfyed before he proceeds to examine ſaid claim, and that the ſaid perſon or perſons ſhall proceed to the Commiſſioner of that diſtrict in which ſaid land appears to lie, his ſaid grant, together with ſuch evidence as is neceſſary in ſimilar caſes, to eſtabliſh the validity of ſaid grant and of the warrant on which the ſame is iſſued; and to produce therewith, to ſaid commiſſioner, the affidavit of the ſurveyor, whoſe duty it is to ſurvey ſuch claim, that the land called for in ſaid grant cannot be identified or found and that he has made diligent ſearch and enquiry for the ſame, and alſo produce ſatisfactory eividence, that the ſurveyor and chain-carriers, who originally ſurveyed the land, and every one of them, are dead or cannot be found, after diligent ſearch and enquiry has been made for them and each of them, or produce the evidence of ſaid ſurvey and chain-carriers, if they are alive and to be found, or the evidence of as many of them as are alive and to be found, proving that the land called for in ſaid patent cannot be identified or found; and alſo, ſaid applicant ſhall ſwear that he doth not know where the ſaid land called for in ſaid patent lies, nor is he able to identify the ſame, although he has uſed all the means in his power to identify the ſame, nor does he know of any perſon claiming title by virtue of or under ſaid grant, and that the affidavit of the grantee ſhall in every caſe be produced, if he is alive and to be found, ſtating that he doth not know where the land called for in ſaid grant does lie; nor of any mode by which the ſame can be identified; whereupon, if ſaid commiſſioner, is ſatisfied that ſaid grant is good and valid, and that the claimant at that time hath the intereſt in the ſame, and the warrant on which the ſame, if iſſued, is good and valid, and that no other grant iſſued on ſaid warrant or any duplicate thereof, and that the land called for therein cannot be found or identified, he ſhall iſſue to ſaid claimant a certificate in the form following, to wit:

This to certify; that A. B. is entitled to   acres of
land, in conſequence of a grant No.   for
acres, dated the   day of   iſſued by North Caro-
lina to   which grant cannot be identified, ſo as to ena-

ble the ſaid to hold ſaid land.

Witneſs C. D. Commiſſioner for Tenneſſee, this
day of C. D. Commiſſioner.
Teſt—J. K. clerk.

Which ſhall be recorded by the clerk, in books to be kept for that purpoſe, and ſaid grant ſhall thereupon become void; and the ſaid books ſhall be examined and ſigned by ſaid Commiſſioner, and it ſhall be the duty of each of the clerks of ſaid Commiſſioners to tranſcribe ſaid books of certificates, and depoſite with the regiſter of the land office, in his diſtrict, a copy of the ſame, and depoſit the original in the office of the Secretary of State.

17. *Be it enacted*, That if any perſon or perſons ſhall have heretofore obtained from the Board of Commiſſioners, or ſhall hereafter obtain from the Commiſſioner herein before mentioned, any certificate or certificates for land taken by a grant of better title covering the ſame, or any certificate or certificates for lands the locality of which could not be aſcertained, by reaſon of any of the cauſes herein before mentioned, and ſhall not be at the time of obtaining the ſame, the real owner or proprietor of the title on which ſaid certificate or certificates iſſued; in that caſe, the perſon or perſons who may have the better title to the ſaid certificate, is hereby authoriſed to ſue for and recover, in any court of record having juriſdiction thereof, the value of the ſaid certificate or certificates, of the perſon or perſons who may have ſo obtained the ſame.

18. *Be it enacted*, That when either of ſaid Commiſſioners determine that the claim of any perſon founded on an entry or warrant, which was not perfected into a grant, is a bona-fide and valid claim it ſhall be the duty of the clerk to record the ſame, in a book to be by him kept for that purpoſe, and the warrant on which ſuch claim is founded, ſhall be filed in the office of the clerk of the ſaid Commiſſioner, together with the evidences thereof, and the ſaid clerk ſhall make out a duplicate thereof, (on which ſhall be endorſed a copy of every aſſignment, endorſment, transfer or other writing which appears on the original claim) which ſaid duplicate ſhall be ſigned by the ſaid commiſſioner, and atteſted by the clerk, and then delivered to the perſon who filed the ſame for adjudication, or his legal repreſentatives; and it ſhall be the duty of ſaid Commiſſioners to examine that ſaid evidences of claims are correctly recorded, and ſign their names to ſaid book of records.

19. *Be it enacted*, That it ſhall be the duty of each of ſaid Commiſſioners to write in the face of each warrant or evidence of claim which he may reject, that the ſame is "Invalid," and ſign his name thereto as Commiſſioner, and cauſe the ſame to be atteſted by his clerk; and ſhall alſo cauſe his clerk to record ſaid warrant or evidence of claim, with the writing put on the face thereof, in a ſeparate book, to be by him kept for that purpoſe, and then, if required, deliver ſaid invalid warrant, or other evidence of an invalid claim, to the perſon, or his legal repreſentatives, who filed the ſame for adju-

dication ; a copy of which books ſhall be taken by ſaid clerk and depoſited with the regiſter of the land office of the proper diſtrict, and the originals ſhall be depoſited in the Secretary's office.

Whereas juſtice to individuals who hold valid claims for lands againſt this ſtate, requires that ſufficient time ſhould be allowed ſuch perſons to enable them to file their claims ; and whereas it is equally juſt that ſome period ſhould be eſtabliſhed, after which no claim ſhould be admitted—Therefore,

20. *Be it enacted*, That every perſon who holds a claim, upon which he wiſhes to obtain a grant for land from this ſtate, ſhall file the ſame for adjudication before the firſt day of January, one thouſand eight hundred and nine, otherwiſe the ſame ſhall be forever barred.

21. *Be it enacted*, That when any perſon or perſons, who may have filed a claim, with either of ſaid Commiſſioners, for adjudication, ſhall be diſſatisfyed with the determination of ſaid Commiſſioner, on his claim, ſuch perſon or perſons ſhall be entitled to an appeal to the ſuperior court of the diſtrict in which ſuch Commiſſioner may ſit : *Provided*, he demands an appeal from ſaid Commiſſioner, within three months after the determination on his claim.

22. *Be it enacted*, That it ſhall be the duty of each of ſaid commiſſioners, upon an appeal being demanded by any perſon as aforeſaid, to allow the ſame, and cauſe his clerk to make an entry to that effect, in a book to be by him kept for that purpoſe ; and it ſhall be the duty of each of ſaid commiſſioners, on the firſt day of the next ſuperior court of the diſtrict in which ſaid commiſſioner may ſit, to furniſh the judges of ſaid ſuperior court, with a liſt of all the claims by him determined, from which appeals may have been granted ; and upon receiving ſuch liſt, it ſhall be a duty of ſaid judges, to re-examine the validity of ſaid claims and determine thereupon ; and the ſaid judges when examining the validity of ſaid claims, ſhall have in their poſſeſſion all the books and other evidences of ſaid claims which were allowed to be uſed by ſaid commiſſioners in their examinations, and all ſuch evidences as (conſiſtent with the rules of law) ought to be admitted in ſuch caſes, and ſhall be attended by the clerks of the reſpective Commiſſioners, who ſhall act as their clerks when examining and adjudging the validity of claims ; and upon ſuch examinations ſaid judges ſhall not allow any counſel or attorney on either ſide ; and if ſaid judges upon ſuch examination ſhould be of opinion that the determination of the commiſſioner was correct, they ſhall cauſe the clerk to exter in ſaid book, to be by him kept, that the judgment of the ſaid Commiſſioner is affirmed ; and ſhall alſo cauſe ſaid clerk to write in the face of ſaid warrant, that the judgment of ſaid commiſſioners is affirmed, and to ſign his name thereto as clerk. And if, upon ſuch examination, ſaid judges ſhould be of opinion, that the determination of ſaid Commiſſioner was incorrect, they ſhall direct ſaid clerk ſo to enter in his ſaid book, and that the ſaid claim is a valid claim ; and if ſuch

claim is for land taken by a better interfering title, they ſhall direct ſaid clerk to enter in ſaid book, for what number of acres the claimant is entitled to a certificate, and the ſaid judges ſhall examine ſaid book kept by ſaid clerk, ſee that the ſame is correct, and ſign their names thereto, ſo ſoon as they have determined all the appeals taken to any one court, and ſhall then cauſe ſaid clerk to return ſaid book and all the other papers brought before them, to ſaid Commiſſioners, who, upon receiving the ſame, ſhall proceed with each claim which ſhall have been determined by ſaid judges, in the ſame manner that it would have been his duty to proceed, provided he had made the ſame determination thereupon, which the ſaid judges have made.

23. *Be it enacted*, That it ſhall be the duty of the clerk of each commiſſioner, to make out and keep in his office, for the inſpection of all perſons, an alphabetical liſt of all warrants which have been adjudged by the commiſſioners, and which may hereafter be adjudged by ſaid commiſſioners, expreſſing alſo the number of acres and number of ſaid warrant and alſo of all certificates which have iſſued or which ſhall iſſue, ſhewing the number of the grant from which the ſame iſſued and the names of the grantees and to whom conveyed, if not iſſued to the grantee; and it ſhall be the duty of each of ſaid clerks to tranſmit to the other commiſſioner's office, a copy of ſaid liſt when made out, together with a ſupplemental liſt, once in every three months by ſome ſafe conveyance.

24. *Be it enacted*, That no grant or a copy thereof, ſhall be received as evidence by either of ſaid commiſſioners, of the claim of any perſon, unleſs the ſame or a regular certified copy thereof, ſhall have been previouſly recorded in the regiſter's office of the county where the land lies, or did lie, at the time of its regiſtration.

25. *Be it enacted*, That in caſe it ſhall appear to either of the Commiſſioners appointed by this act, for the adjudication of claims, that an entry has been made in the office of John Armſtrong, Carter, or Adair, and the conſideration of ſaid entry paid, in caſe no warrant has been iſſued on ſaid entry, or in caſe a warrant has been iſſued on ſaid entry, and ſaid warrant has by any means been loſt or ſo miſlaid, that the ſame cannot be found, that in either caſe, it ſhall and may be lawful for ſaid Commiſſioner to iſſue a duplicate warrant to ſaid perſon making ſaid entry, or his repreſentative, or his or their aſſignee, or the perſon rightfully entitled to the ſame, and ſhall put thereon, all the aſſignments which ſhall be proven to ſaid commmiſſioner to have been made on ſaid warrant, ſo loſt or deſtroyed, which ſaid warrant ſhall be ſigned by the ſaid Commiſſioner and be atteſted by his clerk, and be recorded together with ſaid aſſignments, if any there are, in his record book with other warrants iſſued from ſaid office, and adjudged valid: *Provided*, that in each caſe evidence ſhall be adduced, to ſhew that no grant ever iſſued on ſaid entry or on a warrant iſſued from ſaid entry: *And provided alſo*, That it ſhall be the duty of every perſon who may deſire to obtain a duplicate, on account of the original warrant being

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loſt or deſtroyed, to exhibit his claim in writing, to either of the Commiſſioners, therein expreſſing the manner in which ſuch perſon or perſons claim ſaid warrant, the number of acres and number of ſaid warrant, which claim ſhall be accompanied by the affidavit of ſuch claimant or claimants, or their agent, or ſome other perſon depoſing to ſuch facts as may be ſufficient to ſhew that ſaid warrant has been loſt; and upon ſaid claim being filed, the clerk of ſaid Commiſſioner ſhall give to ſuch perſon a certificate that ſaid claim is filed, therein reciting the warrant claimed and the ground of the claim; which ſaid certificate ſhall, by ſaid perſon, be filed with the other commiſſioner; whoſe duty it ſhall be to examine whether any warrant of the ſame number iſſued on the ſame entry, ſhall have been iſſued from ſaid office, either before or after the paſſing of this act, or whether any ſuch warrant ſhall have been filed in ſaid office for adjudication; and if it ſhall appear that no ſuch warrant has been iſſued from or filed in ſaid office, a certificate to that effect ſhall be given by ſaid Commiſſioner, atteſted by his clerk, to ſaid perſon: on the receipt of which, the Commiſſioner with whom ſaid claim is filed, ſhall be authoriſed to proceed to examine the validity of ſaid warrant as herein before directed: and upon iſſuing ſame, ſhall, when required, deliver ſuch warrant to the perſon or his repreſentatives who may apply for the ſame: *Provided*, that ſuch delivery, or any thing herein contained, ſhall not be ſo conſtrued as to effect any perſon or perſons who may have a better right to ſaid warrant or duplicate than the perſon to whom the ſame is ſo delivered.

26. *Be it enacted*, That if any good and valid warrant or warrants ſhall have been heretofore iſſued by the ſecretary of the ſtate of North Crrolina, in conſideration of military ſervice, which warrant has been loſt or deſtroyed by time or accident, the proprietor of ſaid warrant, his heirs or aſſignees, ſhall not be prejudiced thereby, but it ſhall be the duty of the commiſſioner of Weſt Tenneſſee, upon ſatisfactory proof being adduced to him that ſuch was originally iſſued, that it was good and valid, that it hath been loſt or deſtroyed by time or accident, ſo that it was not in the power of the claimant to lay the ſame before the commiſſioners for adjudication, and that no grant hath iſſued on ſaid warrant, or on a warrant of the ſame number, for the ſame ſervice, and for the ſame quantity of land, to iſſue a duplicate of ſaid warrant, placing thereon, all the endorſements or aſſignments which are proven to him to have been on, or annexed to the original warrant, and deliver the ſaid duplicate to the ſaid claimant who adduces the proof aforeſaid; *Provided*, that ſuch delivery nor any thing herein contained ſhall be conſtrued to affect any perſon or perſons who may have a better right to ſaid duplicate warrant than the perſon to whom the ſame is ſo delivered.

WHEREAS by a reſolution of the general aſſembly of the ſtate of North-Carolina, ſundry warrants were directed to be iſſued by John Armſtrong, to the commiſſioners, ſurveyors, chain carriers, guards and others, accompanying ſaid commiſſioners appointed to run and mark the bounds of the lands allotted to the officers and ſoldiers of the continental line, as at preſent marked: And whereas, for want of proviſion being made by any act or acts of aſſembly of this ſtate, for the claim of ſaid perſons, ſundry of ſaid warrants have been adjudged invalid by the board of commiſſioners; for relief of ſuch claimants as are rightfully entitled to ſaid warrants,

27. *Be it enacted*, That the perſon or perſons, or their legal repreſentatives, or the rightful aſſignee of ſuch perſon or perſons, to whom a warrant ſhall have iſſued by John Armſtrong, entry taker for weſtern lands, for their ſervices as a commiſſioner, ſurveyor, or guard, or for other ſervices in accompanying ſaid commiſſioners, in running & marking the bounds of the land reſerved for the continental line, ſhall be at liberty to file the ſame with the commiſſioner of Weſt Tenneſſee for adjudication, notwithſtanding the ſame may have heretofore been declared invalid for the reaſons aforeſaid; and on adducing proof to ſaid commiſſioner, of the actual ſervice of ſaid perſon, to whom ſaid warrant iſſued, and that the ſignature to ſaid warrant is in the proper hand writing of ſaid John Armſtrong, and that no grant or grants ever iſſued on ſaid warrant or any other warrant for the ſame ſervice, it ſhall be the duty of ſaid commiſſioner to file ſaid warrant in his office, and iſſue a duplicate thereof to the perſon filing the ſame, which ſhall entitle the rightful owner thereof to enter and obtain a title for the quantity of land called for in ſaid warrant, on any vacant and unappropriated land, ſubject by this act to be entered.

WHEREAS it appears that many entries have been made in the office of John Armſtrong, on which the conſideration money appears to have been paid, and on which it appears from the copy of John Armſtrong's entry book, that warrants have iſſued: And whereas it appears on the production of ſaid warrants, by the perſons to whom they were iſſued, that the entry taker has omitted to ſign his name to ſaid warrants; which ſaid warrants appear in every reſpect fair and regular, except ſaid omiſſion in ſigning his name; for relief of ſuch perſons,

28. *Be it enacted*, That whenever it ſhall appear that any entry has been made in John Armſtrong's office, on which entry the conſideration money was fairly and bona fide paid, and on which a warrant purports to have iſſued, and which ſaid warrant when exhibited for adjudication, ſhall appear in all other reſpects fair and regular, except wanting the ſignature of ſaid entry taker, it ſhall and may be lawful for ſaid commiſſioner, before whom the ſaid claim ſhall be exhibited for adjudication, notwithſtanding the ſame may have been adjudged invalid for ſaid omiſſion, to iſſue to the perſon or perſons making ſaid entry, or the legal repreſentatives of ſuch perſon or perſons, or the rightful aſſignee of ſuch perſon or perſons, a duplicate warrant correſponding with ſaid entry and location, which ſhall be ſigned by ſaid commiſſioner, atteſted by his clerk, and recorded as in other caſes of warrants iſſued from ſaid office: *Provided*, That before a warrant ſhall

be iſſued in any ſuch caſe, proof ſhall be adduced, that no warrant or grant ever iſſued on ſaid entry, or on any warrant iſſued thereon.

29. *Be it enacted*, That where any entry has been made by any perſon or perſons, in the office of John Armſtrong, and on which entry no warrant has iſſued, on account of the whole of the conſideration money of ſaid entry not being paid, it ſhall & may be lawful for ſaid perſon or perſons, or his, or her, or their legal repreſentatives, to obtain from either of the commiſſioners, a warrant for ſo much land as ſhall have been paid for, at the rate of ten pounds, North-Carolina currency, for each hundred acres; which ſaid warrant ſhall be ſigned by the commiſſioner, atteſted by his clerk, and recorded as in other caſes: *Provided*, That in no caſe ſhall any ſuch warrant iſſue, unleſs it ſhall appear that no warrant or warrants, or grant ever iſſued on ſaid entry. And unleſs the perſon or perſons exhibiting ſuch claim, ſhall produce a certificate, properly certified from the Comptroller of North Carolina, ſhewing what ſum was paid on ſaid entry, and how much remains unpaid.

30. *Be it enacted*, That the books containing the entries made by Samuel Barton, late entry taker of the preemption claims and guard rights, in the county of Davidſon, be depoſited in the hands of the commiſſioner of Weſt Tenneſſee, to be by him kept a record of the ſtate; and all copies of entries taken from the ſaid books and certified by the commiſſioner aforeſaid, while ſaid record is in his poſſeſſion to be true copies of the original, ſhall be received as evidence in any court of record within this ſtate, and in all caſes in which ſaid evidence may be neceſſary; and it ſhall be the duty of the commiſſioner of Weſt Tenneſſee, in every caſe where an entry appears on ſaid books to have been made fairly and bona fide, and on which no warrant has been iſſued or grant obtained to iſſue a warrant of ſurvey directed to the principal ſurveyor of the diſtrict in which the land deſignated in the ſaid entry may lie, whoſe duty it ſhall be to ſurvey the ſame in manner preſcribed by this act, and the perſon entitled to the benefit of ſaid entry, his heirs or aſſigns, ſhall be entitled to a grant thereon as in other caſes. And when ſaid commiſſioner ſhall have completed the duties impoſed on him by this act, it ſhall be his duty to deliver ſaid entry book to the regiſter of the land office for Weſt Tenneſſee, whoſe duty it ſhall be to receive and ſafely keep the ſame; and all copies taken from ſaid book and certified by ſaid regiſter, after the ſame ſhall have been delivered to him, ſhall be received as evidence in any court of record or elſewhere.

31. *Be it enacted*, That in all caſes where ſurveys have been made on genuine warrants, plats and certificates of ſuch ſurveys made out, and with the warrants ſent to, and filed in the ſecretary's office of North Carolina, for the purpoſe of obtaining grants thereon, and where no grants have iſſued, & where the ſecretary will not deliver the warrant to the party, it ſhall and may be lawful for ſuch perſon or perſons to procure certified copies of ſaid warrants from ſaid ſecretary's office, and

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produce ſaid copies, ſo certified, to either of the commiſſioners by this act to be appointed, whoſe duty it ſhall be to examine the ſame, in the ſame manner, and by the ſame rules preſcribed for aſcertaining the validity of original warrants, if produced; and if ſaid commiſſioner is ſatisfied that ſaid warrant is in the ſaid ſecretary's office, and that the ſame is a good and valid warrant, and that no grant ever iſſued thereon, or on any duplicate thereof, that then and in that caſe ſaid commiſſioner may determine that ſaid copy is a valid claim againſt the ſtate, and ſhall file the ſaid copy in his office, and iſſue a duplicate in the ſame manner as if the original had been filed, which ſhall entitle the rightful owner to obtain a grant, either for the ſame land originally ſurveyed, or any vacant and unappropriated land permitted by this act to be granted, in the ſame manner as by this act preſcribed for obtaining grants upon other claims adjudged to be valid.

32. *Be it enacted,* That in all caſes where either of the boards of commiſſioners heretofore eſtabliſhed, have determined a claim to be valid and have not delivered the ſame to the perſon entitled thereto, it ſhall be their duty to deliver the ſame, together with all the other records, books and papers in their poſſeſſion as commiſſioners, to the reſpective commiſſioners by this act to be appointed, who ſhall (if it has not already been done) cauſe the ſaid warrants to be recorded by their clerk, together with all the aſſignments, transfers, endorſements and other inſtruments of writing on any part of ſaid warrant or attached thereto, and ſhall (if the ſame has not already been made out) cauſe a duplicate of ſaid warrant to be made out as by this act directed, and ſhall cauſe a copy of every aſſignment, transfer, endorſement & other inſtrument of writing which appeared on or was annexed to the original, to be placed on ſaid duplicate, and ſhall then deliver ſaid duplicate, if demanded, to the ſame perſon or his legal repreſentatives, who filed the ſame for adjudication; and in all caſes where claims have been heretofore filed for adjudication, and where no deciſion has been made, it ſhall be the duty of the commiſſioner by this act appointed, to proceed to examine and adjudge ſaid claims in the ſame manner, by the ſame kind of evidence, make the ſame deciſions and diſpoſitions of ſuch claims, as are by this act required with reſpect to claims hereafter to be filed: And it ſhall be a duty of the commiſſioners by this act appointed, in all caſes where ſuch papers may come to their hands, to deliver to the perſons or their repreſentatives who filed the ſame, any grant or other papers filed with the former commiſſioners to obtain certificates, where ſuch perſon or perſons have not been able to obtain any certificate thereon; and in all caſes where grants have been heretofore filed with the commiſſioners for the purpoſe of obtaining certificates on account of the land therein mentioned, or any part thereof being taken by ſome other grant of better title, and where ſaid commiſſioners have iſſued to ſuch claimant a certificate for a plat of the land mentioned in ſuch grant, it ſhall be a duty of the commiſſioners by this act to be appointed, to cauſe their reſpective clerks to endorſe on each

of ſuch grants, a correct copy of the certificate which has iſſued thereon ; and then if required, deliver ſaid grant, ſo endorſed, to the perſons or their legal repreſentatives, who filed the ſame. And in all caſes where either of the boards of commiſſioners hath heretofore adjudged any warrant invalid, it ſhall be the duty of each of the commiſſioners to be appointed under this act, upon ſuch invalid warrant being delivered to them to cauſe their reſpective clerks to record, ſuch invalid warrants. and to record that the ſame hath been adjudged invalid (if ſuch records have not already been made) and cauſe their reſpective clerks to write the word INVALID, in large legible characters, in the face of each of ſaid warrants, and ſubſcribe his name as commiſſioner thereto, and cauſe his clerk to atteſt the ſame, and then when required, deliver ſuch invalid warrants to the ſame perſons or their repreſentatives, who filed the ſame for adjudication.

33. *Be it enacted*, That it ſhall be the duty of each clerk of the commiſſioners to be appointed in purſuance of this act, upon the application of any perſon or perſons who may wiſh information reſpecting his, her or their title, to examine any of the records or books by this act directed to be in poſſeſſion of ſuch commiſſioner, and give the information required ; and if any perſon or perſons may wiſh a copy of any record contained in either of ſaid books while they are in poſſeſſion of ſuch commiſſioner, it ſhall be the duty of ſuch clerk upon application to him made, to make and certify under his hand ſuch copy, which copy ſo certified, ſhall be received as evidence in any court of record or elſewhere ; and whenever ſaid books ſhall paſs out of the hands of ſaid commiſſioners into the hands of any other officer, it ſhall be the duty of ſuch officer upon ſimilar applications to make ſimilar ſearches, give ſimilar information, to make and certify copies of ſaid records, which ſhall be received in evidence in the ſame manner as thoſe certified by ſuch clerks ; and the ſaid clerk or other perſon ſhall demand and receive for each ſearch, and giving the information without copy, the ſum of twelve and one half cents ; and for each copy and certificate, the ſum of fifty cents ; which different ſums, ſuch clerks ſhall each account for, and pay to the treaſurer of the proper diſtrict, at the ſame times, in the ſame manner, and under the ſame penalties preſcribed by law for clerks of the ſuperior courts ; except ſuch ſums as he may receive for ſearches or copies while the commiſſioner is not in ſeſſion, or he is not engaged in making up his records, which he ſhall retain for his own uſe.

34. *Be it enacted*, That in all caſes where any perſon or perſons ſhall have made an entry in any one of the entry taker's offices eſtabliſhed by the laws of North Carolina, or ſhall have purchaſed ſuch an entry or entries from the rightful owners thereof, and where ſuch perſon or perſons have been or hereafter may be prevented from obtaining grants for ſaid lands on the warrants iſſued upon ſuch entries or on the warrants upon which ſuch entries have been founded, through the fraudulent practices of others, that in every ſuch caſe, ſuch perſon or perſons ſhall be allowed the term

of two years, within which to procure a valid warrant or certificate, cauſe an entry thereof to be made and procure a grant from this ſtate for the ſame land mentioned in ſuch ſpecial entry or entries ; within which time it ſhall not be lawful for any other perſon or perſons to make an entry on, or obtain a grant for any ſuch lands.

WHEREAS it is repreſented to this general aſſembly, that ſundry perſons have made entries of land in the office of the ſurveyor of the ſecond diſtrict, and upon the late extention of the Cherokee boundary line, ſuch entries are upon lands to which the Indian title was not extinguiſhed at the time of making ſuch entries, but is now extinguiſhed thereto—Therefore,

35. *Be it enacted,* That it ſhall and may be lawful for all and every perſon or perſons who hath made an entry or entries in ſaid ſurveyor's office, upon his, her or their occupant claim or claims, and for all and every other perſon or perſons who hath made an entry or entries in ſaid ſurveyor's office, on any piece or parcel of land, on which no other perſon was, at the time of making entry or entries, actually ſettled, to which lands the Indian title was not extinguiſhed at the time of making ſuch entry or entries, but is now extinguiſhed thereto, to have ſaid lands ſurveyed and obtain grants upon ſuch entries in the ſame manner they would have been authoriſed to obtain grants if the Indian title had been extinguiſhed at the time of making ſuch entries ; and in all caſes where it has happened that any perſon or perſons hath made an entry or entries of land on which ſome other perſon was at that time ſettled, and to which the Indian claim was not at the time of making ſuch entry or entries extinguiſhed, but which is now extinguiſhed thereto, or where any perſon or perſons have by miſtake made an entry or entries in any ſurveyor's office eſtabliſhed by the act which this act is intended to amend, on any lands to which the Indian title hath not been yet extinguiſhed, it ſhall and may be lawful for ſuch perſon or perſons or their legal repreſentatives, to withdraw ſuch entry or entries, and to make an entry or entries upon the ſame claim or claims, and obtain a grant or grants for any lands authoriſed by this act to be granted, in the ſame manner as if ſuch entry or entries had never been made.

36. *Be it enacted,* That it ſhall and may be lawful for each and every perſon or perſons, who ſhall have made an actual ſettlement, and ſhall have ſeated him, her or themſelves on any vacant and ungranted land, which by this act is intended to be entered and granted, and ſhall have been in poſſeſſion of the ſame on the twelfth day of September, in the year one thouſand eight hundred and ſeven, to have a preference for the term of two years from and after the paſſing of this act, to enter the ſame, not exceeding three hundred acres, nor leſs than one hundred unleſs prevented by interfering claims, to include his, her or their improvement ; and it ſhall be the duty of ſuch occupant or occupants to cauſe to be ſurveyed, where it has not been done, the quantity he, ſhe or they intend entering agreeably to this act, within nine months after the paſſing

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thereof, by the ſurveyor within whoſe diſtrict the ſames lies, or his deputy, whoſe duty it ſhall be to make ſuch ſurveys upon application; and the ſurveyor in marking ſuch ſurveys ſhall make the ſame in the ſhape that other ſurveys are by this act required to be made; and ſaid ſurveyor ſhall record the plats and certificates of ſuch ſurveys in his office, as he is required to record other ſurveys: and the occupant or occupants their heirs or aſſigns, ſhall be bound when they aſterwards procure warrants to cover ſuch ſurveys, to obtain their grants in conformity with ſaid ſurveys; and each occupant failing to make application to have his claim ſurveyed within the time herein preſcribed, ſhall forfeit all claim to any preference; and every ſurveyor failing to make ſuch ſurveys, upon application, ſhall be guilty of a miſdemeanor in office, and the principal and his ſecurities ſhall be further liable upon their bond, to all damages which any perſon may ſuſtain by ſuch failure; and the ſurveyor ſhall be entitled to the ſame fees for ſuch ſurveys as he is allowed by this act for ſimilar ſervices. And upon ſuch occupant or occupants procuring a good and valid warrant or certificate and delivering the ſame to the principal ſurveyor, who, or whoſe deputy ſhall have made his, her or their ſurvey, it ſhall be the duty of ſuch principal ſurveyor to enter in his book, the warrant or certificate to be applied to each of ſuch ſurveys, and then deliver to the party, the plats and certificates of ſuch ſurveys and the warrants or certificates applied thereto; upon the return of which, to the proper regiſter's office, the party or parties ſhall be entitled to obtain grants thereon as in other caſes: *Provided always*, that the ſaid lands ſhall be liable to taxation from the time of making ſuch ſurveys, in the ſame manner they would be if ſuch lands were held by grant.

37. *Be it enacted*, That it ſhall not be lawful for any perſon or perſons to make an entry of, or obtain a ſurvey or grant for any land of which any other perſon or perſons may have actual poſſeſſion, claiming title thereto under a grant or grants from the ſtate of North Carolina, which, upon the face thereof, appears to be fair, or to which any other perſon or perſons claim title under a grant or grants from the ſtate of North Carolina, which, upon the face thereof, appears to be fair, although ſuch perſon may not have actual poſſeſſion, unleſs it can be proved that ſuch perſon or perſons were guilty of ſome frauds in procuring ſuch grant or grants to be iſſued; and if any ſuch entry, ſurvey or grant, ſhall be made or obtained, the ſame ſhall be null and void: *Provided*, that nothing herein contained ſhall be conſtrued to prohibit any perſon or perſons who may be the rightful owner of any good and valid warrant or warrants, from ſurveying the ſame and obtaining a grant for the land ſpecially called for in ſaid entry or warrant, provided the ſaid entry was made and warrant iſſued under the authority of North Carolina.

38. *Be it enacted*, That any perſon having a duplicate warrant, iſſued as by this act directed, where the land called for in the entry on which the original warrant iſſued, hath not been taken by any prior entry, or where the land on which ſuch

original warrant may have been ſpecially located, has not been taken by any prior location, may put the ſame into the hands of the principal ſurveyor of the diſtrict in which ſuch lands lie, or where the land may lie in two different diſtricts, in the hands of the principal ſurveyor of the diſtrict where the beginning corner of ſuch land may lie, who ſhall, upon requeſt, be bound to give a receipt therefor, and it ſhall be the duty of the ſaid ſurveyor, as ſoon as may be after receiving ſuch warrants, to proceed to ſurvey for ſuch claimant the land called for in ſuch entry or location, as the caſe may be, and the ſurveyor in making ſuch ſurveys, is hereby directed to make the ſame agreeable to the requiſitions of the laws in force and uſe at the time of paſſing the ceſſion act.

39. *Be it enacted*, That the ſurveyors of the different diſtricts in this ſtate, in whoſe offices entries may have been made under the act which this act is intended to amend, ſhall proceed to ſurvey the lands called for in ſuch entries, according to the different calls of the reſpective entries, without regard to the ſections or ſectional lines, and an omiſſion to call for a ſection or a ſectional line or a miſtake in calling for a wrong ſection or ſectional line, ſhall not viciate ſuch entries: *Provided*, the other calls of ſaid entries are ſuch as will give reaſonable notice of the land intended to be entered.

40. *Be it enacted*, That every perſon having a duplicate warrant iſſued as by this directed, or as directed by the act, which this is intended to amend, or a certificate iſſued as directed by either of ſaid acts, and being deſirous of obtaining a grant or grants thereon, for any vacant and unappropriated land within this ſtate, ſhall produce ſaid warrant or certificate to the ſurveyor of the diſtrict in which he intends obtaining any grant, and at the ſame time ſhall produce and deliver to ſaid ſurveyor a location of the lands he wiſhes to obtain a grant for, and ſaid location ſhall ſet forth where the land ſhall be ſituated, the neareſt water courſes, mountains and remarkable places, and ſuch water courſes and remarkable places as may be therein, the natural boundaries and the lines of the lands of any other perſon or perſons, if any, which divide it from other lands; which location ſhall be on not leſs than a quarter of a ſheet of paper and ſhall be ſigned by the perſon making the ſame: and the ſaid ſurveyor ſhall receive ſaid warrant or certificate and location, and if required, ſhall give to ſuch perſon a receipt for the ſame, and ſhall immediately enter ſaid location in a book to be by him kept for that purpoſe; and ſhould two or more perſons at the ſame time, offer to any ſurveyor, locations of the ſame land, he ſhall immediately have it determined by lot, which ſhall have priority of entry, and make their entry accordingly; and ſaid ſurveyor ſhall as ſoon as may be, after receiving ſaid location, cauſe to be ſurveyed the lands deſcribed therein, paying due regard to the calls of ſaid location and running ſaid ſurvey to the cardinal points and no ſurvey ſhall be more than twice as long as wide, except where the ſame cannot be done on account of natural boundaries or prior adjoining claims, and ſhall within three months at fartheſt, after ſaid

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ſurvey is ſo made, record the plats and certificates thereof, at full length, in a bound book to be kept for that purpoſe in which plats and certificates ſhall be contained a correct account of the number of acres (which correctneſs the principal ſurveyor ſhall aſcertain from calculations made by himſelf) the county and diſtrict in which the land lies, the kind of warrant or certificate, it is founded upon, the courſes and diſtances of the ſeveral boundaries, natural and artificial, ancient and new ; and alſo the name of every perſon whoſe former lines make a boundary, and ſhall at any time thereafter when required, deliver to the perſon for whom ſaid ſurvey was made, the ſaid plats and certificates of ſurvey : *Provided always*, That in all caſes where any perſon or perſons ſhall wiſh to make two or more entries on one warrant or certificate, that the whole of ſaid entries ſhall be made with the ſame ſurveyor, and in no caſe ſhall a part of a warrant or certificate be ſatisfied in one ſurveyor's diſtrict and a part in another ; and it ſhall be the duty of ſuch principal surveyor in ſuch caſe, to cauſe to be recited in each entry ſo made, that the ſame is on a part of ſaid warrant or certificate, expreſſing the number thereof, the quantity of acres it calls for, and the part thereof which remains to be ſatisfyed, a memorandum of which entries ſo made, ſhall be endorſed on ſaid warrant or annexed thereto, which warrant ſhall accompany the firſt plat and certificate of ſurvey, made by virtue thereof, to the regiſter's office, and there remain as a check upon ſuch claims as are founded thereon. And that all entries and ſurveys made under the act which this act intends to amend, & all ſurveys to be made in purſuance of ſaid act, and all entries and ſurveys to be made under the authority of this act, ſhall be made for lands within the bounds of the firſt, ſecond, third fourth, fifth, and ſixth ſurveyors diſtrict, as deſcribed in the third ſection of the act which this act is intended to amend, and that it ſhall not be lawful for any perſon or perſons to enter or obtain a ſurvey, or obtain a grant for any land under the proviſions of this act, within this ſtate, except within the bounds of ſaid diſtricts ; and that hereafter in making entries and ſurveys in the reſpective diſtricts, and appointing deputy ſurveyors, the eaſtern line of the fifth diſtrict, dividing ſaid diſtrict from the ſixth diſtrict, ſhall be the line of Jefferſon county, dividing the ſame from Green and Hawkins, and the line of Grainger county, dividing the ſame from Hawkins county, and the line of Claiborne county, dividing the ſame from Hawkins, ſo as to include all the county of Jefferſon, Grainger, and Claiborne in ſaid diſtrict, and all of the county of Hawkins in the ſixth diſtrict.

41. *Be it enacted*, That it ſhall not be lawful for any perſon or perſons to enter, ſurvey or obtain a grant for any tract or part of a tract of land heretofore ſurveyed or marked for the uſe of ſchools, by either of the ſurveyors appointed in purſuance of the act which this act is intended to amend and if any entry ſhall have been made or ſhall hereafter be made, the ſame ſhall be null and void, and it ſhall not be lawful for either of the regiſters to iſſue a grant for the ſame, and if ſuch

grant ſhould be iſſued the ſame ſhall be null and void; and that it ſhall be lawful for ſuch perſon when ſuch entries have been made, to remove ſaid warrant or certificate, and enter the ſame on any other vacant land in this ſtate, intended by this act, to be granted.

42. *Be it enacted*, That it ſhall be the duty of each and every ſurveyor in making any ſurvey of land upon which a grant is to be obtained from this ſtate, to run and cauſe each and every line thereof to be plainly and diſtinctly marked the whole length thereof, and it ſhall be the duty of the perſon for whom any ſuch ſurvey is to be made, to attend ſuch ſurveyor in perſon, or cauſe ſome other to attend him at the time of making ſuch ſurvey, and mark the lines as above directed; and in caſe ſuch perſon ſhould fail to attend, or cauſe ſome other perſon to attend and mark, it ſhall be a duty of ſuch ſurveyor to procure ſome perſon to attend him and mark the lines of the ſurvey, in the manner hereby directed, who ſhall be paid by the perſon for whom the ſurvey is made, at the rate of one dollar per day.

43. *Be it enacted*, That in all caſes where any perſon hath heretofore made, or may hereafter make an entry on any piece of land, the whole or a part of which is taken by ſome prior claim, that it ſhall and may be lawful for ſuch perſon to make an entry on & obtain a grant for any vacant and unappropriated land within this ſtate, which by this act is intended to be granted, for the whole amount of his warrant and certificate, or of ſuch part as is taken away by ſuch prior claim, and in all caſes where any perſon or perſons ſhall have made or or may hereafter make an entry on any piece of land, and upon ſurveying the ſame it is found that in conſequence of prior claims or natural boundaries, or from the boundaries or calls of the location, there is not as much vacant land as will ſatisfy the quantity called for in ſaid entry, it ſhall and may be lawful for ſuch perſon or perſons to obtain a grant for ſuch quantity as is vacant, and included within the boundaries and calls of location, and to make another entry in the ſame ſurveyor's office on other vacant land to the amount of the deficiency, which ſecond entry ſhall be founded on the ſame warrant or certificate with the firſt entry, and ſhall be ſo ſtated by ſaid ſurveyor in his certificate of ſurvey.

44. *Be it enacted*, That it ſhall be the duty of every ſurveyor by himſelf or deputy, to make the ſurveys in the different diſtricts aſſigned to each deputy, within any ſurveyor's diſtrict, as near as may be, according to priority of entry, when ſaid entries join each other, or are for the ſame land, except ſuch perſon for whom ſuch prior entry was made, ſhall fail or refuſe within the term of twelve days after the time at which ſaid ſurvey ſhall be authoriſed to be made, to call upon ſaid ſurveyor and require ſaid prior entry to be ſurveyed; and any ſurveyor whether principal or deputy failing in any of the duties enjoined by this act, ſhall be liable to be indicted in the court of the diſtrict in which his office may be kept, and upon conviction, to be puniſhed by fine and deprivation of his office, and incapacity to hold or take it again, and the principal ſur-

veyor and his ſecurities ſhall moreover be liable to any party injured for all damages he may ſuſtain by ſuch failure; and that in all caſes in making original ſurveys, the ſurveyor ſhall not make any allowance, but ſhall make each ſurvey on each entry or location, as nearly as practicable for the quantity called for in ſuch entry or location, provided there is land ſufficient to fill the ſame, and ſhould it hereafter appear that any tract of land, which has or may be ſurveyed by and under the authority of this act, or the act which this act is intended to amend, which ſhall contain within the lines and corners of ſaid ſurvey one fourth more than the quantity called for in the entry on which ſuch ſurvey has or ſhall be made, the ſaid addition of one fourth ſhall be deemed a fraud, practiſed on the ſtate, by the ſurveyor, and it ſhall be deemed and declared a miſdemeanor in the ſaid ſurveyor, who ſhall or may have made ſuch ſurvey, and it ſhall be the duty of the attorney general for the diſtrict, in which the ſame may be done, upon information being given to him thereof, to prefer an indictment againſt and proſecute ſuch ſurveyor in the ſuperior court of ſuch diſtrict, and on conviction thereof, he ſhall be removed from office, and be fined and impriſoned at the diſcretion of the court; and if any ſurvey contains more land within the lines than one tenth more than the quantity called for in ſaid ſurvey, the quantity exceeding ſaid addition of one tenth ſhall be deemed vacant land, and ſhall be thrown off on ſome one line by the owner, and in one tract; nor ſhall any ſurveyor make an entry or ſurvey for more than five thouſand acres in any one tract, nor ſhall the regiſter, ſecretary & governor iſſue any grant which calls for a larger quantity than five thouſand acres; and if it ſhould ſo appear that any ſurvey or grant ſhould be made which calls for a larger quantity than five thonſand acres, the ſame ſhall be null and void, and ſaid grant ſhall not be admitted as evidence in any court of record within this ſtate.

45. *Be it enacted*, That the regiſter ſhall in no caſe iſſue a grant to any aſſignee, of a plat and certificate of ſurvey, unleſs ſuch aſſignment is upon ſaid plat and certificate, which ſaid aſſignment ſhall be proven in open court of the county where the land lies, by two credible witneſſes, or acknowledged by the perſon making ſuch aſſignment, with the clerk's certificate of ſuch probate or acknowledgment; and in no caſe ſhall any entry be transferred in the ſurveyor's entry book, but the ſurveyor ſhall in all caſes make the ſurvey in the name of the perſon or his legal repreſentatives for whom the entry ſhall have been made.

46. *Be it enacted*, That each principal ſurveyor ſhall ſubdivide his diſtrict in ſuch manner as to him ſhall ſeem moſt convenient, and ſhall ſo apportion his deputies to ſaid inferior diſtricts, that only one ſhall be at liberty to make ſurveys in each inferior diſtrict, and it ſhall be his duty to appoint at leaſt, one deputy ſurveyor, who ſhall reſide in each county within his diſtrict.

47. *Be it enacted*, That if any perſon ſhall obtain a ſurvey by virtue of an entry made in any of the offices eſtabliſhed by

the laws of North-Carolina, or by virtue of an entry made under this act, or under the act this is intended to amend, to which land any other perſon hath a claim, the perſon having ſuch claim may enter a caveat to prevent ſuch perſon from obtaining a grant, till ſaid claim can be determined; ſuch caveat ſhall be entered within three months at fartheſt, after the receipt of the plat and certificate of ſurvey, at the principal ſurveyor's office, expreſſing alſo the nature of the right on which the plaintiff therein claims the land, and the quantity and part of ſaid ſurvey claimed, and ſhall take from the principal ſurveyor a certified copy thereof, which within thirty days thereafter, he ſhall deliver to the clerk of the court of the county in which the land or any part thereof lies, and ſhall moreover take from the principal ſurveyor a certified copy of the ſurvey and plat, which within thirty days from the entering ſuch caveat, he ſhall in like manner deliver to the clerk of the court where the ſuit ſhall be tried, and in caſe of failure in either inſtance, the caveat ſhall be void.

48. *Be it enacted*, That the clerk of ſuch court upon receiving the ſame, ſhall enter ſuch copy of the caveat in a book to be by him kept for that purpoſe, and ſhall thereupon iſſue a ſummon directed to the ſheriff of any county wherein the defendant may reſide, reciting the cauſe for which ſuch caveat is entered, and requiring the defendant to appear on the firſt day of the next ſucceeding county court and defend his right; and on ſuch proceſs being returned executed on ſuch defendant, his agent or attorney, the court ſhall proceed to determine the right of the cauſe, in a ſummary way, without pleading in writing, by impanelling and ſwearing a jury for finding ſuch facts as are material to the cauſe, and are not agreed upon by the parties, and ſhall thereupon give judgment; and if either party ſhall be diſſatisfied with the judgment of the county court, they ſhall be entitled to an appeal to the ſuperior court of the diſtrict in which the county court may be, under the ſame rules regulations and reſtrictions, and upon the ſame conditions that appeals are allowed in other caſes; and upon a tranſcript of ſaid cauſe being filed in the ſaid ſuperior court, within the time preſcribed by law, the ſaid ſuperior court ſhall cauſe a new trial of the ſaid ſuit to be had before them, by ſwearing a jury as directed in the county court, and upon their finding ſhall give judgment; a copy of which ſaid judgment, or a copy of the judgment of the county court if in caſe no appeal has been taken, if in favor of the defendant, being delivered into the office of the principal ſurveyor, ſhall vacate the ſaid caveat; and if the ſaid judgment be in favor of the plaintiff, upon delivering a copy of the ſame into the office of the principal ſurveyor, he ſhall be entitled to obtain a grant for the land mentioned and deſcribed in ſaid caveat and judgment, in the ſame manner as if ſuch perſon caveated had never obtained any ſurvey therefor; and in all caveat caſes the coſts ſhall go with the cauſe, and the courts ſhall have power to compel caveators to give ſecurity for the coſts in all caſes where they judge it proper ſo to do.

49. *Be it enacted*, That when due returns of plats and cer-

tificates of ſurvey and warrants are made to the regiſter, in manner as by this act directed, the regiſter ſhall make out a grant by way of deed poll, to the party having right, in the following form:

THE STATE OF TENNESSEE,

To all whom theſe preſents ſhall come, Greeting:

KNOW YE, That in conſideration of (reciting the ground of the claim, the number and date of the entry, or location, and the number and date of the warrant or certificate) there is granted by the ſaid State of Tenneſſee unto C. D. and his heirs, a certain tract or parcel of land, containing acres, lying in the county of in the diſtrict of (deſcribing the bounds of the land and date of the ſurvey upon which the grant iſſues) with the hereditaments and appurtenances: TO HAVE AND TO HOLD the ſaid tract or parcel of land with its appurtenances to the ſaid C. D. and his heirs forever.

In witneſs whereof, A. B. Governor of the State of Tenneſſee, hath hereunto ſet his hand, and cauſed the Great Seal of the State to be affixed, at on the day of in the year of our Lord and of the Independence of the United States the

A. B.

E. F. Secretary.

Upon which grant the ſaid regiſter ſhall endorſe that the party hath title to the ſame, and ſubſcribe his name as regiſter thereto, which having been ſigned by the governor, counterſigned by the ſecretary, and ſealed with the great ſeal of the ſtate, ſhall be entered of record at full length by the ſaid regiſter in well bound books to be provided by him for that purpoſe, and being ſo entered, ſhall be certified by ſaid regiſter to have been regiſtered, and then be delivered to the party or his order. And where a grant ſhall be made to the heir or aſſignee of any perſon claiming under the before mentioned rights, the material circumſtances to ſhew the right of the party to the grant, ſhall be recited in the grant.

50. *Be it enacted*, That all plats and certificates of ſurvey, and warrants and certificates returned to the regiſter's office upon which grants iſſue, ſhall by ſaid regiſter be carefully numbered with the ſame number of the grant iſſued thereon filed away in numerical order, & preſerved in ſaid office, and ſhall on no account be ſuffered to be taken out of ſaid regiſter's office, and in every caſe were a warrant or certificate has a grant or grants iſſued thereon to its full amount, it ſhall be the duty of the regiſter to write in plain legible characters in the face of ſuch warrant or certificate, the word 'GRANTED, and ſign his name thereto.

51. *Be it enacted*, That it ſhall be lawful for the clerks of the Commiſſioners, the regiſter's of the Land-Office, and the ſurveyors reſpectively, to demand and receive the ſeveral fees herein after mentioned, and allowed for any buſineſs by them

reſpectively done, by virtue of their ſeveral offices, and no other fees whatever, that is to ſay:

To the Clerks,—For each day he neceſſarily attends the commiſſioners, two dollars and fifty cents per day; and for copying the records of ſaid commiſſioners, at the rate of two dollars and fifty cents per day, for each day he may be neceſſarily engaged, therein, to be paid in the manner pointed out by this act.

To the Surveyors,—Who ſhall be paid by thoſe for whom he performs the ſervice, for every ſurvey by him plainly bounded, as by this act directed, where the ſurvey ſhall not exceed three hundred acres, two dollars—For every hundred acres exceeding that quantity, in the ſame tract, fifty cents, provided it does not exceed one thouſand acres—For every hundred acres contained in ſaid tract above one thouſand and under two thouſand acres, thirty-ſeven and one half cents, and for each hundred acres above two thouſand in each tract, twenty five cents—For every reſurvey of land upon which a grant has iſſued, and the lines thereof not cloſed, or more than two corners made, the ſame as on an original ſurvey—For recording a plat and certificate, as by this act directed, in well bound books, to be procured by ſaid ſurveyor at his own expence, fifty cents—For receiving warrant and location and giving a receipt for the ſame (if required) and making an entry thereof, in a well bound book, to be procured at his own proper coſts, fifty cents, and for a copy thereof, twelve and one half cents. And it ſhall be the duty of each principal ſurveyor, upon application of any perſon, to ſearch for any record in his office, and read the ſame to ſuch perſon without fee.

To the Commiſſioners—To each commiſſioner for every day he may be neceſſarily engaged as a commiſſioner, the ſum of three dollars; which ſum ſhall be paid to the commiſſioners, and their clerks reſpectively, by either treaſurer, out of any public monies not otherwiſe appropriated upon a warrant or warrants, drawn by the governor, who is hereby authoriſed to iſſue the ſame, upon application from the commiſſioners or clerks, accompanied by a ſtatement of their accounts, ſigned by the commiſſioners reſpectively.

To the Regiſter—For receiving and filing a plat and certificate of ſurvey, and warrant or certificate (as the caſe may be) making out a grant and recording the ſame, one dollar—For a regular certified copy thereof, fifty cents and for every ſearch of, and reading a record (if no copy be required) twelve and one half cents.

It ſhall be the duty of the ſecretary to enter down in a bound book, by him to be kept for that purpoſe, the number and date of each grant he affixes the ſeal of the ſtate to, alſo the quantity of acres, and the grantee's name, for which he ſhall be entitled to twelve and one half cents.—To the ſecretary of ſtate for every grant altered, in purſuance of a certificate from any county or ſuperior court, the ſum of ſeventy five cents.

WHEREAS it is doubted whether the treaſurers are authoriſed to defray the expences incurred by the act which this

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act is intended to amend, out of any monies in the treaſury, except the money ariſing from the ſale of occupant claims, ſouth of French Broad and Holſton, for explanation thereof,

52. *Be it enacted*, That it ſhall be lawful, and it is hereby declared to be the duty of either of the treaſurers to diſcharge ſaid expences out of any money in either of their offices, after the firſt day of January next, not otherwiſe appropriated.

53. *Be it enacted*, That it ſhall be the duty of the regiſter of the land office, for Eaſt Tenneſſee, to liquidate and ſettle the claim of the ſurveyor of the fourth diſtrict, for ſectioning ſaid diſtrict, laying down the prior claims within the ſame, and for laying off the lands for the uſe of ſchools, at the ſame rates heretofore preſcribed, and to iſſue warrants to the full amount of ſaid account, after deducting the amount for which warrants may have already iſſued, which ſhall entitle ſaid ſurveyor to make an entry or entries, obtain a ſurvey or ſurveys and a grant or grants to the amount of ſuch warrant or warrants, upon any vacant and unappropriated land which is intended by this act to be granted.

54. *Be it enacted*, That from and after the paſſing of this act, all thoſe parts of the act which this act is intended to amend, which relates to the appointment of two boards of commiſſioners, preſcribing their duties, the mode of their doing buſineſs, and every part of ſaid act relating thereto, ſo far as reſpects any thing hereafter to be done; and all thoſe parts of ſaid act which preſcribes to the ſurveyors, or any or either of them, duties different from thoſe pointed out in this act; and all thoſe parts which directs a mode of proceeding by ſaid ſurveyors or any or either of them, different from that pointed out by this act, ſo far as reſpects any thing hereaftor to be done; and that all thoſe parts of ſaid act which preſcribes different duties to the regiſters, or either of them, from thoſe preſcribed in this act; and all thoſe part which directs a different mode of proceeding by ſaid regiſters or either of them than thoſe pointed out by this act, ſo far as reſpects any proceedings hereafter to be had; and all thoſe parts of ſaid act which preſcribe different duties, or a different mode of proceeding for the clerks of the commiſſioners, or either of them, ſo far as reſpects any proceedings hereafter to be had, ſhall be and the ſame hereby are repealed; and that the fourteenth, nineteenth, twentieth, forty eighth, fifty ſecond and fifty ſeventh ſections of the ſaid act, ſhall be and hereby are repealed. And that all ſections and clauſes in ſaid act which are in any wiſe inconſiſtent with any of the proviſions in this act, ſhall be and the ſame are hereby repealed, ſo far as may reſpect any thing hereafter to be done.

CHAP. V.

An act augmenting the ſum, and increaſing the number and ſufficiency of the ſecurities, of the Treaſurer, of the Diſtricts of Waſhington and Hamilton, and the Treaſurer of the Diſtricts of Mero, Wincheſter, and Robertſon.

WHEREAS the revenue of the ſtate has greatly increaſed, and in all probability will continue to increaſe, and the bonds and ſecurities heretofore required by law to be taken of the reſpective Treaſurers of the ſtate department, being conſidered inſufficient to ſecure the Revenue in its preſent progreſſive ſtate———Therefore,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the paſſing hereof, the Treaſurer of Hamilton and Waſhington Diſtricts, and the Treaſurer of Mero, Wincheſter and Robertſon Diſtricts, ſhall each, enter into bond with ten ſufficient ſecurities in the ſum of fifty thouſand dollars, under the ſame proviſions, rules and regulations as heretofore directed and required by law.

2. *Be it enacted,* That if the Treaſurer elected for the Diſtricts of Mero, Wincheſter and Robertſon, ſhall at the time required by law, for him to give ſecurity, fail or refuſe to give ſuch ſecurity as ſhall be adjudged ſufficient by the judges of the ſuperior court, when authoriſed to take ſuch ſecurity, that it ſhall be lawful for the ſaid judges, to certify ſaid fact to the Governor, for the time being under their hands, and it ſhall thereupon become the duty of the Governor, to proceed to appoint ſome other fit and proper perſon to fill ſuch vacancy, who ſhall give bond and ſecurity in the ſame manner as is provided by this act for the Treaſurer of the Diſtrict of Mero, Wincheſter and Robertſon.

3. *Be it enacted,* That all laws and parts of laws inconſiſtent with the proviſions of this act, be, and the ſame are hereby repealed.

CHAP. VII.

An act making proviſion for the payment of Jurors to the County Courts.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That from and after the firſt day of January next, the ſeveral County courts in this ſtate, ſhall at their firſt Court to be holden in each County, in each and every year, proceed to lay a County tax, on the taxable property and polls in their County, ſufficient to meet the expence of paying Jurors to the County Court.

2. *Be it enacted,* That from and after the firſt day of January next, each Juror attending the County Court, as well Petit as Grand Jurors, ſhall be entitled to, and receive fifty

cents for each day they may neceſſarily attend, which ſhall be paid by the County Treaſurer, on a certificate from the clerk of ſaid Court whoſe duty it ſhall be, to give the ſame, and for which certificate ſaid clerk ſhall be entitled to ſix and one fourth cents, to be paid in like manner.

CHAP. VIII.

An act declaring what fences ſhall be deemed ſufficient, and for other purpoſes.

WHEREAS the peace and harmony of neighborhoods much depends on good and ſufficient fences——Therefore,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That every planter ſhall make a ſufficient fence about his cleared land in cultivation, at leaſt five feet high, and ſhall make such fence sufficiently cloſe to prevent hogs from paſſing through the ſame, for at leaſt three feet high from the ſurface of the earth.

2. *Be it enacted*, That when any treſpaſs ſhall have been done by any cattle, horſes or hogs, on the cleared and cultivated ground of any perſon, it ſhall be lawful for such perſon to complain thereof to any juſtice of the peace, for the county where ſuch treſpaſs ſhall have been done: and such juſtice is hereby authoriſed and required, to cauſe two diſcreet and impartial freeholders to be ſummoned, who, with ſuch juſtice, ſhall view and examine on oath, whether the complainant's fence be ſufficient or not, and what damage he hath ſuſtained by such treſpass, and certify the ſame under their hands and ſeals, and if it ſhall ſo appear, that the fence be ſufficient, then the owner of ſuch cattle, horſes or hogs ſhall make full satisfaction for the treſpaſs, to the party injured, to be recovered before any tribunal having cognizance thereof; but if it ſhall appear, that the ſaid fence be deemed inſufficient, then the owner of ſuch cattle, horses or hogs, ſhall not be liable to make satisfaction for ſuch damages.

3. *Be it enacted*, That if any perſon whoſe fence ſhall be adjudged inſufficient, ſhall, with guns, dogs or otherwiſe maim, wound or kill any horſe, cattle or hogs, or cauſe or procure the same to be done, ſuch perſon ſo offending, ſhall make full ſatisfaction to the perſon injured, for all damages by ſuch perſon ſuſtained, to be recovered before any tribunal having cognizance thereof.

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CHAP. XII.

An act to provide for the appointment of a public printer.

1. *Be it enacted by the General Aſſembly of the State of Tennessee*, That at each ſtated ſeſſion of the general aſſembly a public printer ſhall be appointed by joint ballot of both houſes of the legiſlature. He ſhall give bond with ſuch ſecurity, as the ſpeaker ſhall deem ſufficient, to execute the printing according to law, and ſhall be entitled to receive at the rate of five cents for every ſheet of twelve pages of the laws, in octavo folio of royal paper, printed on ſmall pica type, with marginal notes; and at the rate of three cents per ſheet, of ſixteen pages of the Journals in a duodecimo folio of royal paper, on ſmall pica type. He ſhall be bound to deliver to the clerks of the reſpective counties, within four months after the riſe of the legiſlature, their quantum of laws reſpectively, and journals within ſix months.

2. *Be it enacted*, That the number of copies of laws to be printed, ſhall be eleven hundred and twenty five, of which number thirty nine ſhall be lodged with the ſecretary of ſtate, for the uſe of the legiſlature, and the reſidue ſhall be deſtributed as may be directed by the legiſlature.

3. *Be it enacted*, That the numbers of copies of the journal to be printed, ſhall be eight hundred and forty, of which number, thirty nine, ſhall be lodged with the ſecretary of ſtate, for the uſe of the legiſlature, and the reſidue ſhall be diſtributed as may be directed by the legiſlature.

4. *Be it enacted*, That the perſon who may be elected public printer, under the proviſions of this act, ſhall continue to exerciſe the duties of that appointment, for and during two years, and no longer.

5. *Be it enacted*, That it ſhall be the duty of ſaid printer, to make out a complete alphabitical table of the principal matters contained in the laws, print and annex the ſame to the pamphlets containing ſaid laws, with references to the reſpective pages in which each principal matter may be found.

CHAP. XIII.

An act to authoriſe the appointment of two attornies general for this ſtate, and to aſcertain their ſalaries.

1. *Be it enacted by the General Aſſembly of the State of Tennessee*, That there ſhall be appointed in manner as directed by the conſtitution of this ſtate, one fit and proper perſon, whoſe duty it ſhall be to attend the ſeveral ſuperior courts, for the diſtricts of Mero, Winchester and Robertſon, and diſcharge the duties of attorney for the ſtate: Alſo, one other perſon in like manner, whoſe duty it ſhall be to attend the ſeveral ſuperior courts for the diſtricts of Waſhington and Hamilton, for the purpoſe aforeſaid.

2. *Be it enacted*, That it ſhall be the duty of each of ſaid attornies general, punctually to attend each and every of the ſuperior courts within the diſtrict for which he may be appointed, and to attend the proſecution of every caſe in which the ſtate may be a party ; and alſo, to attend to every queſtion which may occur in any of ſaid courts, in which this ſtate is in any wiſe intereſted ; and at all times, when called upon by the governor, ſecretary of ſtate, or either of the treaſurers, for an opinion on any queſtion of law, relating to the duties of their office, to give the ſame without fee.

3. *Be it enacted*, That each of the attornies general appointed by this act, ſhall be entitled to receive from either of the public treaſurers of this ſtate, the ſum of forty five dollars for each and every ſuperior court they may attend, in compliance with this act, and in full compenſation for all further ſervices, as required by the ſecond ſection of this act, in compliance with this act.

CHAP. XVII.

An act ſupplementary to an act entitled, " An act for the appointment of a regiſter of the land office, and providing for the ſale of lands ſouth of Holſton and French Broad, agreeable to the conſtitution of this ſtate, and the proviſions of the act of congreſs, therein referred to."

1. *Be it enacted*, That if any perſon, either plaintiff or defendant ſhall be diſſatisfied with the ſentence, judgment or decree of any county court, on the trial of any caveat for land in ſaid tract of country, by a jury, in either of the county courts ſuch perſon or perſons ſhall be entitled to an appeal to the ſuperior court of the diſtrict in which ſuch county ſhall be ; which appeal ſhall be allowed by ſaid court, under the ſame rules, regulations and reſtrictions, as appeals are by law allowed in other caſes ; and upon a tranſcript of the record of ſaid cauſe being filed with the clerk of ſaid diſtrict, at leaſt fifteen days before the ſitting of the term to which ſaid appeal is returnable, it ſhall be the duty of ſaid ſuperior court to proceed to determine the right of the cauſe, in a ſummary way, without pleadings in writing, by impanneling and ſwearing a jury, for the finding of ſuch facts as are material to the cauſe, and are not agreed on by the parties ; and ſhall, thereupon, give judgment, a copy of ſuch judgment, if in favour of the defendant, on being delivered unto the office of the ſurveyor general, ſhall vacate ſaid caveat, and if ſaid judgment be in favour of the plaintiff, upon delivering a copy of the ſame into the office of the ſurveyor general, within ſixty days thereafter, ſhall vacate ſaid ſurvey, or ſo much thereof, as ſhall be found in favor of ſaid plaintiff.

2. *Be it enacted*, That in all ſuch cauſes it ſhall and may be lawful for the county or ſuperior courts, to order ſurveys to be made as in other diſputes about the bounds of land, where to them it ſhall ſeem neceſſary.

3. *Be it enacted*, That where any of the ſurveyors may have failed or omitted to ſurvey any right or rights of occupancy, within the above deſcribed tract of country, within the time heretofore preſcrbed by law, that it ſhall and may be lawful for ſaid ſurveyors or deputy, or either of them, and they are hereby required to proceed to make ſuch ſurveys, which when made, ſhall be as good and valid in law, as if they had been made within the time heretofore preſcribed ; and it ſhall be lawful for the ſurveyor general of ſaid diſtrict, and he is hereby required to receive ſuch plat of ſurvey, hereafter to be made, in the ſame manner, and under the ſame rules and regulations that have been heretofore preſcribed by law ; and alſo, all thoſe which have been made ſince the expiration of the time heretofore preſcribed by law, and previous to the paſſage of this act.

4. *Be it enacted*, That all caveats filed in the clerk's office, of any county, under the proviſions of the act to which this is a ſupplement, ſhall be tried at the ſecond term of the court, after the ſummons ſhall have been executed, unleſs the parties therein, agree to try the ſame at the firſt term, or unleſs ſufficient reaſon be ſhewn by either party, why ſaid cauſe ſhould be continued at ſaid ſecond term.

5. *Be it enacted*, That when a ſummons ſhall iſſue on any caveat being filed in the clerk's office of any county, and the ſaid ſheriff or other officer in whoſe hands the ſame ſhall have been put for execution, return that the ſame is not executed, if it ſhall appear to the court that ſaid defendant, or a known agent of his does not reſide in any county of this ſtate, to order the clerk of ſaid court to certify ſaid fact, and cauſe the ſame to be publiſhed twice in ſome newſpaper printed in Knoxville ; and on proof that ſaid publication has taken place, ſix weeks before the ſucceeding term, ſaid publication ſhall be deemed a legal ſervice ; and where any ſuch officer ſhall return that ſuch ſummons hath not been executed, it ſhall be lawful for ſuch court to order another ſummons to iſſue to any county in this ſtate.

6. *Be it enacted*, That no caveat which has been heretofore entered, or may hereafter be entered, ſhall be diſmiſſed on account of any deficiency or want of form in drawing the ſame, but every caveat ſhall be tried on its merits by a jury, agreeably to the evidence adduced by the parties, provided ſaid caveat contain the ſubſtance of the plaintiffs claim : *Provided*, nothing herein contained, ſhall be ſo conſtrued as to authoriſe any perſon or perſons to enter a caveat unleſs it be done within ſix months after the reception of the plat and certificate of ſurvey by the ſurveyor general, agreeably to the true intent and meaning of the law, which this act is intended to amend.

CHAP. XXI.

An act ſupplementary to "an act to aſcertain what property in this ſtate ſhall be deemed taxable, and the mode of collecting, accounting for, and paying public taxes," paſſed November ſeventh, one thonſand eight hundred and three.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That it ſhall be the duty of all and every perſon or perſons who ſhall be the owner of any lands within this ſtate, liable to taxation, by him, or herſelf or agent, to make return to the juſtices appointed to receive liſts of taxable property within each county, of the lands ſo liable to taxation in ſaid county, which return ſhall be in writing and on oath, particularly ſpecifying the true quantity claimed within the lines of ſuch tract, and identifying the ſame, by naming the water courſe, or otherwiſe deſcribing the ſituation of the ſame; and alſo the material circumſtances of the title, whether holden by deed, grant or otherwiſe, and it ſhall be the duty of ſaid juſtice, to make accurate liſts of ſuch land ſo returned as taxable, therein deſcribing particularly each tract ſo claimed by any perſon, and the deſcription of the ſame ſo given, as herein before required; which liſts ſhall be by him returned to the court of the county within which he may reſide, at the firſt court after taking the ſame, which liſts ſhall be recorded by ſaid clerk, and be then filed away in his office; and it ſhall be the duty of ſaid clerk, within thirty days after the riſe of the court, at which ſaid liſts are filed in his office, to give to the collectors of taxes in ſaid county, a complete liſt of all lands ſo returned, noting in each caſe the ſpecification and deſcription returned by the owner thereof: *Provided nevertheleſs,* that if any perſon or perſons ſhall fail or neglect to make return of any land ſo holden by him, her or them, in any county, to the ſaid juſtices appointed as aforeſaid to take liſts of taxable property in ſaid county, it ſhall and may be lawful for ſuch perſon or perſons, or his or their agent, at any time before the firſt day of May, in ſuch year, for which the tax may be due, to make return thereof to the clerk of the county, within which ſuch land may lie, which return ſhall be in writing and on oath, which oath ſhall be adminiſtered by ſaid clerk, or any acting juſtice of the peace in this ſtate; and the ſaid land ſhall be therein deſcribed and ſpecified as herein before required, and the ſaid clerk ſhall exofficio within thirty days thereafter, deliver to the collector, a copy of every ſuch ſupplemental return, and on failure or refuſal of the owner or his agent, to pay the amount of taxes due on ſaid land, it ſhall be the duty of the collector to levy and collect the ſame by diſtreſs on the perſonal property of the owner of ſaid land, as heretofore provided by law.

2. *Be it enacted,* That each and every perſon, who ſhall by him or herſelf or agent, fail to make return in manner as herein before directed, of any land which he, ſhe or they ſhall own, in any county liable to taxation, before the ſaid firſt day of May, in the ſaid year for which the ſame may be lia-

ble to taxation, ſaid perſon ſhall be liable to a double tax on ſaid land ſo omitted to be returned.

3. *Be it enacted*, That it ſhall be the duty of the collector of taxes in each county in this ſtate, at the firſt court in each county after the firſt day of January in each year, to make report to ſaid court, in writing, of the different tracts of land in ſaid county, on which the taxes for the preceding year have not been paid, and alſo of all ſuch tracts or parts of tracts of land as have from his own knowledge, or the information of others, not been returned for taxation for ſaid preceeding year, and it ſhall be the duty of ſaid court, to cauſe ſaid report to be recorded in books to be kept for that purpoſe, and to cauſe judgment to be entered up for double the tax due on ſaid land not returned for taxation, and ſo unpaid, and ſhall order the ſame to be ſold, or ſo much thereof as will be ſufficient for the payment of ſaid double tax and coſts, by ſaid collector, at the court houſe of the county in which ſuch land may lie, on the firſt Monday of July then next following and the ſucceeding day; and in ſelling ſaid lands or any part thereof, and in making deeds for the ſame, the ſaid collector ſhall obſerve the rules preſcribed in the thirteenth ſection of the act to which this is a ſupplement; and the ſaid clerk ſhall cauſe a copy of ſuch order of ſale, together with a deſcription of each tract of land ſo ordered to be ſold, deſcribing the ſame as liſted and returned to his office to be publiſhed as ſoon as may be, (which ſhall be at leaſt three months before the day of ſale) at leaſt two different times in ſome reſpectable newſpaper printed in Naſhville, and as often in ſome reſpectable newſpaper printed in Knoxville, or in the diſtrict wherein ſaid land may lie, ſetting forth the amount of taxes, coſts and charges, and the place where, and the time when the ſame will be ſold, and if ſaid tax, coſts and charges ſhall not be paid before ſaid time of ſale, ſaid collector ſhall proceed to ſell the ſame, or ſo much of each tract, as will be ſufficient to ſatiſfy ſaid tax, coſt and charges, and execute deeds for the ſame ſo ſold, as directed in the thirteenth ſection of ſaid act, and the ſaid collectors, clerks and printers, ſhall be entitled to the ſame fees for ſaid ſervices, as have been heretofore allowed by law for ſimilar ſervices.

4. *Be it enacted*, That all ſales of land by collectors for taxes which ſhall hereafter accrue on any lands, or which heretofore have accrued, and for which no order of ſale has been made, ſhall be made on the firſt Monday of July and the ſucceeding day; and no ſuch ſale ſhall take place until the year ſucceeding that for which ſaid tax ſhall be owing.

5. *Be it enacted*, That in all ſales of lands for taxes, whenever the ſheriff ſhall ſell land which is held by entry only, and never has been granted, the ſheriff ſhall transfer the whole or part of ſaid entry (as the caſe may be) to the perſon who was the purchaſer and paid the money under ſaid ſale, and ſaid transfer ſhall be a ſufficient lien on the warrant or certificate on which ſuch entry was made, or ſuch part thereof, as will

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authoriſe the perſon to whom ſuch transfer was made, to hold and obtain a grant for the part to which he is juſtly entitled.

WHEREAS in the firſt ſection of an act entitled, “ An act to amend an act, entitled, “ an act directing the diviſion of the ſtate into convenient diſtricts, for the appointment of principal ſurveyors thereof, and for aſcertaining the bona fide claims againſt the ſame, agreeable to an act of congreſs paſſed the eighteenth day of April, one thouſand eight hundred and ſix, entitled, “ an act to authoriſe the ſtate of Tenneſſee, to iſſue grants and perfect titles to certain lands therein deſcribed and to ſettle the claims to the vacant and unappropriated lands within the ſame,” and to point out the mode hereafter to be purſued in aſcertaining the unſatisfied claims, and perfecting titles on the ſame,” paſſed the preſent ſeſſion of the general aſſembly, it is made the duty of the Commiſſioner for Eaſt Tenneſſee, to ſit at Knoxville on the ſecond Monday of December next: And whereas, at the time of paſſing ſaid act, it was the intention of the general aſſembly that ſaid commiſſioner ſhould ſit on the ſecond Monday of December, one thouſand eight hundred and ſeven—Therefore,

6. *Be it enacted,* That it ſhall be the duty of ſaid commiſſioner to hold his firſt ſeſſion at Knoxville, on the firſt Monday of January next, any thing in the before recited act to the contrary notwithſtanding.

7. *Be it enacted,* That each of the commiſſioners to be appointed by the before recited act, ſhall before entering on the duties of his appointment, before ſome judge of the ſuperior court, or ſome juſtice of the peace, take and ſubſcribe the followng oath, to wit:

I A. B. do ſolemly ſwear, that as commiſſioner for Eaſt or Weſt Tenneſſee (as the caſe may be) I will honeſtly, faithfully and impartially diſcharge all the duties, by law impoſed upon me as commiſſioner, to the beſt of my underſtanding—So help me God.

CHAP. XXIV.

An act regulating coſts in criminal caſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That on all indictments for capital as well as inferior offences, if the defendant ſhall be acquitted by the verdict of a jury on the trial of the merits of the cauſe, and the court before whom the ſame ſhall have been tried, ſhall be of opinion that the proſecution was malicious or frivilous, the ſaid court may tax the proſecutor with the coſt of ſuch proſecution.

2. *Be it enacted,* That on all criminal proſecutions, as well for capital as inferior offences, if the defendant ſhall be acquitted by the verdict of a jury, on the trial on the merits of the cauſe, ſuch defendant ſhall be acquitted of all coſts, except ſuch witneſſes as may be ſummoned for the defendant; and where the proſecutor ſhall not be taxed with the coſts,

and in ſuch caſes, the ſeveral officers of court ſhall be conſidered as having performed their ſervices exoffico, without any ſpecial fees therefor: *Provided*, that nothing herein contained ſhall be ſo conſtrued, as to prohibit the court from taxing the coſt of trial againſt the defendant, when there exiſts ſtrong preſumption of his guilt, notwithſtanding he may have been acquitted by the jury.

3. *Be it enacted*, That in all caſes of indictment in the county courts, where the bill of indictment is quaſhed by the court for want of form, the ſolicitor or attorney by whom ſuch bill may be prefered, ſhall not be entitled to any fee therefor.

CHAP. XXV.

An act concerning ferries and ferry landings.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That from and after the paſſage of this act, it ſhall be the duty of the ſeveral county courts in this ſtate, to authoriſe the owner or owners of ferry landings, or owners of land on each ſide of rivers, where ferries heretofore have been eſtabliſhed, or hereafter ſhall be, to erect a ferry or ferries under the ſame rules, regulations and reſtrictions that ferries have heretofore been eſtabliſhed by law; and the ſaid ferry keepers are hereby authoriſed to land their boats on the oppoſite banks of the rivers.

2. *Be it enacted*, That where a public road croſſes a river, upon which it may be neceſſary to eſtabliſh a ferry, or where one heretofore hath been eſtabliſhed, and where the banks are owned by different perſons, that each perſon ſhall be authoriſed to keep a ferry, and bound to keep his own bank in complete repair, as heretofore contemplated by law, and at the ſame time allow to the holder of the oppoſite bank, free and uninterrupted privilege of landing his boat or craft on either of the banks: *Provided*, he lands at ſuch place on the bank as is or may be cut out and prepared for that purpoſe unleſs prevented by high water or other unavoidable accidents.

CHAP. XXVII.

An act to exempt certain lands from taxation.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That from and after the paſſing of this act, all lands within this ſtate held by any perſon or perſons for the uſe of any religious ſociety or ſocieties, for the purpoſe of having thereo any church, meeting-houſe or other buildings wherein to aſſemble to worſhip Almighty God, ſhall be and the ſame and every part thereof, hereby is exempt from the payment of any ſtate, county or other tax; nor ſhall the ſame, or any part thereof, nor thoſe in whom the title to ſaid lands are or may

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be, be liable to be taxed, or to the payment of any tax on account thereof.

2. *Be it enacted,* That all thoſe lands within the limits of this ſtate, which have been deviſed or given by any perſon or perſons to the truſtees of the Univerſity of North-Carolina, or to any other perſon or perſons for the uſe of ſaid Univerſity, ſhall be, and the ſame hereby are exempted from the payment of any ſtate, county or other tax, nor ſhall the ſaid lands or any part thereof, be liable to the payment of any tax, nor ſhall the ſaid truſtees, or any other perſon in whom the title to ſuch lands may be, be ever liable to return a liſt of ſuch lands, or to pay any tax of any deſcription therefor, ſo long as ſaid lands are held for the uſe of ſaid Univerſity.

3. *Be it enacted,* That from and after the paſſing of this act, all the lands within the limits of this ſtate, which hath been appropriated for the uſe of ſchools, or which are held by any perſon or perſons in truſt for the uſe of any college, academy, or other ſeminary of education in this ſtate, ſhall be, and the ſame hereby are exempted from the payment of any ſtate, county or other tax; nor ſhall any perſon or perſons be bound to return any liſt of any ſuch lands, nor be liable to pay any tax therefor.

4. *Be it enacted,* That this act ſhall be in force, from and after the paſſage thereof.

CHAP. XXX.

An act to direct the duty of clerks and ſheriffs in certain caſes therein mentioned.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee,* That it ſhall be the duty of the clerks in the ſeveral counties in this ſtate, within fifteen days after the adjournment of their reſpective courts, to make out all orders made during the term of ſaid court, whereby any perſon is appointed overſeer of any public road, and deliver the ſame to the ſheriff of his county within the term aforeſaid.

2 *Be it enacted,* That the ſheriff by himſelf or his deputy, on the receipt of the orders aforeſaid, ſhall within twenty days thereafter deliver the ſame to the perſon ſo appointed, or leave the ſaid order at the uſual place of abode of the perſon appointed overſeer, and ſhall make return to the next court of his county how he has executed the ſame, and the clerk ſhall record the ſaid return.

3. *Be it enacted,* That if any overſeer of a road notified as aforeſaid, ſhould be indicted or preſented, the return of the ſheriff ſhall be received as evidence on the trial.

CHAP. XXXIII.

An act to ſecure the free navigation of the river Wataga.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That from and after the paſſing of this act, the river Wataga from Carriger's ford, to the junction of the ſame with the river Holſton, ſhall be and remain a public way, free and open to all citizens of this ſtate, and others, for navigation with boats, crafts and other means of conveyance by water, without moleſtation or obſtruction.

2. *Be it enacted*, That if any perſon or perſons ſhall hereafter erect or cauſe to be erected any fiſh dam or trap, or other obſtruction in ſaid river, ſuch perſon or perſons ſhall leave open, in the deepeſt part of the channel of ſaid river, where the ſame may be ſo erected, one third part of the width of ſaid channel, and keep the ſame open during the continuance of ſuch dam or trap.

3. *Be it enacted*, That any perſon or perſons who ſhall fail to comply with the above regulation, or any perſon or perſons who is or are the owner of any fiſh dam or trap on ſaid river, already erected, who ſhall not have left open one third part of the ſaid river, in the deepeſt part of the channel thereof, and who ſhall refuſe to permit ſaid dam to be pulled down, ſo as to leave open ſaid one third part of ſaid channel, where the same is deepeſt, ſhall forfeit for the same, the ſum of one hundred dollars, and ſhall moreover, be liable to any perſon or perſons for any damage ſuſtained, in navigating ſaid river in conſequence of any dam or obſtruction erected or continued contrary to the proviſions of this act.

CHAP. XXXIV.

An act to amend an act entitled, "An act aſcertaining the number of Judges of the Superior Courts of Law and Equity, and fixing their ſaleries, and directing their qualifications in office," paſſed, the ninth day of April, one thouſand ſeven hundred and ninety-ſix.

1. *Be it enacted by the General Aſſembly of the State of Tenneſsee*, That there ſhall be appointed an additional judge of the ſuperior courts of law and courts of equity, in this ſtate; who ſhall poſſeſs the ſame powers, have the ſame qualifications, take the ſame oaths, and be liable to the ſame penalties, that are or may be given to, required of, or imposed upon either of the three judges heretofore appointed.

2. *Be it enacted*, That it ſhall be the duty of the judges of the ſuperior courts of law and equity, in this ſtate, to make an arrangement that ſome three of ſaid judges, ſhall attend each and every term of the ſuperior courts of law and equity, in the different diſtricts in this ſtate, and that ſaid arrangement ſhall be made in ſuch manner, that only one of the

ſaid judges who ſhall reſide in Eaſt Tenneſſee, ſhall attend the ſuperior courts of Weſt Tenneſſee at the ſame term; and that only one of the judges who ſhall reſide in Weſt Tennneſſee, ſhall attend the ſuperior courts in Eaſt Tenneſſee, at the ſame term.

3. *Be it enacted*, That the ſaid judges ſhall continue each ſeſſion or term, of each of ſaid ſuperior courts, hereafter to be holden, in each of ſaid diſtricts, until all cauſes then ready for trial or hearing, are decided, or until it is neceſſary to adjourn to attend ſome ſuperior court in ſome other diſtrict.

4. *Be it enacted*, That the judge hereby directed to be appointed, ſhall have the ſame ſalary, to be paid by the ſame perſons, at the ſame times, and in the ſame manner, that is by law allowed, and paid to either of the judges of the ſuperior courts heretofore appointed.

5. *Be it enacted*, That this act ſhall be in force, from and after the paſſing thereof

6. *Be it enacted*, That all acts, and parts of acts, inconſiſtent with the proviſions of this act, ſhall be, and the ſame hereby are repealed.

CHAP. XXXVI.

An act ſupplemental to "an act to reduce Williamſon county to conſtitutional limits, and to form a new county on the ſouth and ſouth weſt of the ſame," paſſed this ſeſſion.

2. *Be it enacted*, That in all caſes where a new county hath been or hereafter may be formed, it ſhall and may be lawful for any acting juſtice of the peace, for any county in this ſtate, to attend at the time and place for holding the firſt court in ſuch new county, and adminiſter to the juſtices of the peace, appointed in ſuch new county, the oath of office preſcribed by law.

CHAP. XL.

An act ſupplemental to an act entitled, "An act to encourage the building of iron works in this ſtate," paſſed at Fayetteville, in the year one thouſand ſeven hundred and eighty eight.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That where any perſon or perſons hath heretofore, erected, or that may erect iron works hereafter, where the water of ſuch dam, as may be neceſſary for carrying on ſuch iron works, may overflow the lands of any other perſon or perſons; in that caſe, it ſhall be lawful for the owner or owners of ſuch iron works, to file his or their petition, to the court of pleas and quarter ſeſſions, of the county wherein ſuch iron works are or may be erected, ſetting forth all material facts; whereupon it ſhall be the duty of the ſaid court to proceed to

appoint a jury of twelve freeholders in ſaid county, whoſe duty it ſhall be, immediately after getting notice of their appointment, to value the land ſo loſt by inundation, taking into view the quantity of the land, as well as improvement thereon, if any ; and alſo, the injury that may be done thereby, to the whole tract, a part of which, is overflowed, together with all natural advantages, and make return of the value thereof, to the next ſucceeding court, together with a plat or figure, and quantity of ground ſo overflowed : *Provided*, that no court or jury ſhall have power to condemn for the purpoſes aforeſaid, more than one and one half acres of ground, excluſive of the channel, or uſual water mark of the water courſe, nor extend to the deſtruction of manſion houſes, previouſly built, of orchards, or never failing ſprings of good and wholeſome water, nor where the water overflowing ſaid land, ſhall endanger the health of any family or familes.

2. *Be it enacted*, That it ſhall be the duty of the court, to cauſe the return of ſuch jury to be entered on record, which record when made, ſhall ſtand as a judgment or decree of ſaid court ; and the perſon or perſons, rightfully holding the land, valued as aforeſaid, ſhall have the ſame benefit of ſaid records as he, ſhe or they might or could have of a judgment rendered in his, her or their favor, in any civil caſe, and the clerk have authority to iſſue execution, (if thereunto required), and the ſheriff authoriſed to collect the amount thereof, in the ſame manner and for the ſame fees, as in other civil caſes.

3. *Be it enacted*, That on the owner or owners of ſuch iron works, producing to the court a receipt in full of the judgment and coſts, rendered againſt him or them, as aforeſaid, the court ſhall thereupon order him or them, a copy of the judgment and proceedings, at full length, certified by the clerk ; which being regiſtered, in the office of the regiſter of the county, ſhall veſt ſuch owner or owners of iron works, in fee, of the premiſes ſo valued as aforeſaid : *Provided*, that if the owners of ſuch iron works ſhall, for any three years in ſucceſſion, fail to make at ſuch works, the quantity of ten tons of iron in each year, the title to ſuch land ſhall revert to, and the intereſt thereof, be reveſted in the original owner, his heirs, aſſigns or deviſees.

CAAP. XLIII.

An act making proviſion for the extinguiſhment of the Indian claim to lands within the limits of this ſtate.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the ſum of twenty thouſand dollars of any monies in either of the public treſuries, not otherwiſe ſpecially appropriated, ſhall be a fund, ſubject to the purpoſe of holding a a treaty or treaties with the Cherokee nations of Indians, and for extinguiſhing their claim to all or any part of the lands within the limits of this ſtate, and within the limits of the

lands relinquiſhed to this ſtate by an act of the Congreſs of the United States, entitled, " An act to authoriſe the ſtate of Tenneſſee, to iſſue grants to certain lands therein deſcribed, and to ſettle the claims to the vacant and unappropriated lands within the ſame."

2. *Be it enacted*, That as ſoon as this ſtate ſhall be veſted by the government of the United States with power to hold and conclude a treaty or treaties with the ſaid nation of Indians, for the purpoſe aforeſaid, agreeably to a reſolution of this general aſſembly, paſſed November 11th, 1807 ; or as ſoon thereafter as the governor of this ſtate ſhall deem it expedient to hold ſuch treaty or treaties, he ſhall have power to draw by warrant, under his hand, on each or either of the ſaid treaſurers, for the whole, or any part of ſaid ſum, that may be neceſſary to defray the expences of holding ſuch treaty or treaties, and for the purpoſe of extingiſhing ſaid claim.

3. *Be it enacted* That upon this ſtate being veſted with ſaid power, the governor for the time being as ſoon as he ſhall deem it expedient, may appoint two commiſſioners on the part of this ſtate, for the purpoſe of holding and concluding ſuch treaty or treaties, with ſaid nations of Indians.

CHAP. LIII.

An act regulating the time of holding the ſeveral courts therein mentioned, and for other purpoſes.

1. *Be it enacted by the General Assembly of the State of Tennessee*, That the ſeveral county courts, in Wincheſter diſtrict, ſhall commence on the following days, (to wit :) The county of Franklin, on the fourth Monday in January, April, July & October ; the county of Warren, on the firſt Mondays of February, May, Auguſt and November ; the county of White, on the ſecond Mondays in February, May, Auguſt & November ; the county of Overton, on the third Mondays of February, May, Auguſt and November ; the county of Jackſon, on the fourth Mondays in February, May, Auguſt and November ; the county of Smith, on the firſt Mondays in March, June, September and December, in each and every year.

2. *Be it enacted*, That the county court of Montgomery, ſhall commence on the third Mondays in the months of March, June, September and December, in each year ; and ſhall continue twelve juridical days at each ſeſſion, if the buſineſs before ſaid court ſhall not be ſooner gone through ; and the other county courts in the ſeveral counties compoſing the diſtrict of Robertſon, ſhall commence on the following days, (to wit :) In the county of Dickſon, on the ſecond Mondays in the months of April, July, October and January ; in the county of Hickman, on the third Mondays in April, July, October and January ; in the county of Stuart, on the fourth Mondays in the months of April, July, October and January ; in the

county of Robertſon, on the firſt Mondays of April, July, October and January.

3. *Be it enacted*, That the courts in the counties of Rhea and Bledſoe, ſhall be hereafter holden in ſaid counties at the following times, viz.: The courts of Rhea county ſhall be holden on the fourth Mondays in January, April, July and October, in each year; and the courts of the county of Bledſoe, ſhall be holden on the firſt Mondays in February, May, Auguſt and November, in each and every year; and that any thing in any other act directing a different time for holding either of ſaid courts, ſhall be and is hereby repealed.

4. *Be it enacted*, That this act ſhall take effect and be in force in each of the counties herein mentioned, from and after the next court to be held in ſaid counties reſpectively; and all proceſs iſſued from any of the ſaid county courts, ſhall be returnable to the next court as preſcribed by this act, except in the counties of Bledſoe, Rhea and Hickman, or to which counties this act ſhall take effect and be in force from and after the paſſage thereof.

WHEREAS an act paſſed this ſeſſion of the general aſſembly, entitled, "An act for the regulation of the town of Carthage," and that the time preſcribed by the firſt ſection of ſaid act, for holding the firſt election of commiſſioners of the ſaid town will come on before notice can be had of the ſaid act; For remedy whereof,

5. *Be it enacted*, That the firſt election of commiſſioners of ſaid town, ſhall commence and be held on the fourth Thurſday in the preſent month of December, under the ſame rules and regulations preſcribed in the above mentioned act; and every act or part of an act, inconſiſtent with the proviſions of this act, are hereby repealed, ſo far as reſpects the firſt election for ſaid commiſſioners.

CHAP. LIX.

An act to facilitate the opening and keeping in repair the public roads within this ſtate.

WHEREAS much of the proſperity and happineſs of a people depends upon a well regulated and convenient intercourſe being kept up among them, and as nothing contributes ſo much to the eſtabliſhment and continuance of that intercourſe as the good order of the public roads, which are frequently out of order, in conſequence of the reſpective overſeers thereof, being much retarded in their uſeful operations, by reaſon of a deficiency of neceſſary tools and utenſils for opening the roads and removing rocks and other obſtructions therein: For remedy whereof,

1. *Be it enacted by the General aſſembly of the State of Tenneſſee*. That the ſeveral county courts are authoriſed and required upon application to them made, by any overſeer of a road within this ſtate, and on its appearing to the ſatisfaction of the court that the articles herein after mentioned, are neceſ-

ſary, to cauſe to be provided for the uſe of ſuch overſeer, one ſtone hammer and crow bar, to be paid for out of any money in the county treaſury not otherwiſe appropriated, and the ſaid tools ſo provided, ſhall be kept ſafely by ſaid overſeer, and be uſed on the road ſubject to his controul, and not to be appropriated to any other uſe or purpoſe whatſoever; and if ſaid overſeer ſhall lend out, or otherwiſe uſe the ſaid tools than required by this act, ſuch overſeer ſhall on conviction thereof, be fined by the court in a ſum not exceeding five dollars, for each and every offence ſo committed.

CHAP. LX.

An act reſpecting the duty of juſtices of the peace during the ſitting of the county courts.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That each and every county court in this ſtate, ſhall on the ſecond day of each and every term, determine on what day of the ſucceeding term, ſaid courts will tranſact county buſineſs, and direct the clerks to put up at the court-houſe doors, notice thereof in writing; and it ſhall alſo be the duty of each and every county court, to determine at the ſame time, on what day of the term the court will take up the ſtate docket, and direct the clerk to give notice thereof in writing as above; and it is hereby declared to be the duty of juſtices to attend on thoſe days.

2. *Be it enacted*, That this act ſhall be in force from and after the firſt day of May next. And that when a bill of indictment ſhall have been found, the witneſſes for the ſtate, and the witneſſes for the defendant, ſhall be entitled to no compenſation for attendance, before ſaid day appointed for the trial of ſtate cauſes; and it ſhall be the duty of the clerk when iſſuing a ſubpœna in ſuch cauſe, to name therein the day on which ſaid ſtate cauſes ſhall be tried, of which the officer ſerving ſaid ſubpœna ſhall notify ſaid witneſs.

CHAP. LXII.

An act to amend an act entitled, "An act in addition to an act paſſed on the firſt day of November, one thouſand eight hundred and five, entitled, 'An act for the regulation of regiſter's offices, &c." paſſed the laſt ſeſſion of the general aſſembly of the ſtate of Tenneſſee.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That when any perſon ſhall be concerned or intereſted in having regiſtered the probate or acknowledgment of any deed or inſtrument required by law to be regiſtered, which probate hath not been regiſtered with ſuch deed or inſtrument, and ſuch perſon ſhall not be poſſeſſed of, nor have in his or her power ſuch deed or inſtrument altho' the ſame may be in exiſtence it ſhall be lawful for ſuch perſon to apply to the clerk of the county court where ſuch probate was made and procure ſuch clerk to make out a tranſcript of ſuch probate or acknowledgment and certify the ſame, (the perſon ſo applying) having firſt made oath that the original deed or inſtrument is not in his poſſeſſion and that he hath no power or control over ſuch deed or inſtrument, for which certificate the clerk ſhall be entitled to twelve and one half cents; and on production of ſuch certificate of probate or acknowledgment to the regiſter or tranſcriber of the regiſter's books of the county where ſuch deed or inſtrument hath been regiſtered, it ſhall be the duty of ſuch regiſter or tranſcriber, to regiſter ſuch probate or acknowledgment, in the ſame manner, as if the original deed or inſtrument with the probate or acknowledgment thereon written were produced.

CHAP. LXVI.

An act to compel clerks to account for and pay into the treaſury, all the public monies by them received; and to pay over to plaintiffs and others, monies by them received as clerks.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That it ſhall be the duty of each and every clerk of any county court, ſuperior court of law or court of equity within this ſtate, on the firſt day of October, in each and every year, to render to the treaſurer of the proper diſtrict, an account of all the monies by him collected for the uſe of the ſtate, in the manner hertofore preſcribed by law; and at the ſame time, to pay to the ſaid traſurer, the full amount of ſaid monies, after deducting therefrom the amount of the commiſſions to which he is, or may by law be entitled.

2. *Be it enacted*, That if any ſuch clerk, ſhall knowingly, omit to charge in his account, any ſum of money for which he is by law liable to account, and ſhall ſwear to any ſuch account, knowing that the ſame is incorrect, and ſhall produce ſuch falſe account to either treaſurer for the purpoſe of ſettlement, ſuch clerk ſhall be conſidered guilty of wilful and corrupt perjury, and ſhall for every ſuch offence, upon conviction in the ſuperior court of the diſtrict where ſuch oath ſhall have been adminiſtered, ſuffer all the pains and penalties by law preſcribed for that offence.

3. *Be it enacted*, That if any ſuch clerk ſhall fail to render to the proper treaſurer, the account in the manner preſcribed by law, it ſhall be the duty of ſaid treaſurer, at the next ſuperior court of the diſtrict in which ſuch treaſury is kept to cauſe the attorney general to move ſaid ſuperior court for a judgment againſt ſaid clerk and his ſecurities upon his bond; and it ſhall be a duty of ſaid ſuperior court, immediately to give judgment againſt ſuch clerk and his ſecurities, for the penalty contained in ſaid bond, and to award execution thereupon: *Provided always*, That if ſuch clerk ſhall at any time

after the rendition of ſuch judgment, produce to ſaid treaſurer an account ſworn to as by law preſcribed and pay him the full amount thereof and all intereſt due thereon, from the time the ſame ſhould have been paid without deducing any commiſſions, the ſaid treaſurer, ſhall receive the ſame in diſcharge of ſuch judgment, leaing ſaid clerk and his ſecurities liable to pay the coſts of ſuit.

4. *Be it enacted*, That if any ſuch clerk ſhall after rendering his account to the treaſurer, fail to pay to ſaid treaſurer the amount due thereon, it ſhall be a duty of ſaid treaſurer to cauſe the attorney general to move the ſuperior court of the diſtrict in which ſuch treaſury is kept, at their next ſitting after ſuch failure, for a judgment againſt ſuch clerk and his ſecurities upon their bond; and it ſhall be a duty of ſaid ſuperior court, immediately to give judgment againſt ſaid clerk and his ſecurities for the penalty of ſaid bond, to be diſcharged by the payment of the ſum which appears to be due by ſaid account, (without allowing any commiſſions and intereſt thereupon) from the time ſuch account ſhould have been paid, and all coſts of ſuit: *Provided always*, that ſuch judgments or any, or either of them, ſhall not be a barr to a recovery of any other judgment upon the ſame bond for any other failure; but as many different judgments may be rendered upon the ſame bond, as there are different failures either to account or pay.

5. *Be it enacted*, That if at any time hereafter, any treaſurer of this ſtate, at the time he goes out of office, ſhall fail or refuſe to deliver and pay over to his ſucceſſor in office, all money in the treaſury, or which he is by law bound to pay over, it ſhall be the duty of the attorney general of the diſtrict in which ſuch treaſurer may reſide, to move the ſuperior court for judgment on the bond of ſuch treaſurer and his ſecurities; and it ſhall be the duty of the ſaid court, to enter the ſame againſt the ſaid treaſurer and his ſecurities, for all money due or owing by him to the ſtate; *Provided*, that ſaid treaſurer have ten days previous notice of ſuch motion, and execution ſhall iſſue on ſaid judgment as in other caſes.

6. *Be it enacted*, That it ſhall be a duty of the attorney general, at any time when applied to by either treaſurer, to move the ſaid ſuperior courts againſt delinquent clerks, or other collectors; and for ſuch ſervices, he ſhall be entitled to the ſames fees againſt ſaid defendants, as are by law allowed in other civil caſes.

7. *Be it enacted*, That in caſe any ſaid clerks ſhall have heretofore failed to render their accounts and pay the monies by them collected for the uſe of the ſtate, in the manner heretofore preſcribed by law, it ſhall be the duty of ſuch clerks to render their accounts for, and pay over to the proper treaſurer, on or before the firſt day of March next, all the monies ſum due and unpaid; and in caſe of failure by any clerk to render ſuch accounts and make ſuch payments, or in caſe of failure to render ſuch accounts or make ſuch payments, it ſhall be the duty of the treaſurer, to take the ſame ſteps to enforce

ſaid payments for each and every year any of ſuch clerks may now be in arrear, that are by this act pointed out to enforce payment of monies hereafter to become due; and upon application being made to any of ſaid ſuperior courts for judgments on acconnt of failure, to render an account of, or pay monies now due, it ſhall be the duty of ſuch ſuperior court to give judgment and award execution for each and every year in which a failure has heretofore happened, in the ſame manner, and with like effect, pointed out in this act for failures which may hereafter happen.

8. *Be it enacted,* That in all caſes where any plaintiff, or other perſon, hath, or ſhall by the judgment or decree of any court within this ſtate, recover any ſum of money, and ſuch money has been or may hereafter be paid into the hands of the clerk of ſuch court, in conſequence of ſuch judgment or decree, and ſuch clerk ſhall not have paid the ſame to the party entitled thereto, it ſhall be the duty of ſuch clerk, upon application of ſuch plaintiff, his attorney or other perſon who appears by the record to be entitled to the ſame, made at the office of ſuch clerk, to pay to ſuch plaintiff, his attorney or other perſon, the full amount of ſuch money paid into his hands; and upon his failing to do ſo, it ſhall be a duty of the court of which he is clerk, upon the application of the party entitled by motion, to give judgment for ſuch ſum of money againſt ſuch clerk and his ſecurities, and immediately award execution for the ſame as in other caſes.

9. *Be it enacted,* That if any of ſaid clerks ſhall fail to perform any of the duties impoſed upon them by this act, it ſhall be conſidered a miſdemeanor in office by ſuch clerk, and and he ſhall be liable to be indicted therefor, in the court of which he is clerk, (except clerks of the courts of equity who may be indicted in the ſuperior court of law of the ſame diſtrict in which he may be clerk,) and upon conviction, ſuch court may remove ſuch clerk from his ſaid office.

10. *Be it enacted,* That this act ſhall be in force from and after the paſſing thereof.

CHAP. LXVII.

An act to amend an act, paſſed at Knoxville the ſixth of September, in the year of eighteen hundred and ſix, entitled, "An act for the appointment of a regiſter of the land office, and providing for the ſale of the lands ſouth of Holſton and French Broad, agreeably to the conſtitution of this ſtate; and the proviſions of the act of congreſs therein referred to."

Be it enacted by the General Aſſembly of the State of Tenneſſee, That each occupant on the ſouth ſide of French Broad and Holſton, and weſt of Big Pigeon rivers, ſhall be bound to pay one tenth part of the whole purchaſe money for his occupant claim, on the firſt day of March, one thouſand eight hundred and nine, and no ſooner; one other tenth part, on the firſt day of March, one thouſand eight hundred and ten; and the reſidue, in eight equal annual inſtalments; the firſt of which ſhall become due and be paid, on the firſt day of March, one thouſand eight hundred and eleven; and each of ſaid occupants, ſhall pay at the rate of ſix per cent. per annum, on the firſt inſtalment of ſuch purchaſe money, from the firſt day of March one thouſand eight hundred and eight, till paid, and intereſt on each of the remaining inſtalments from the time they deſigned to be paid, under the act, which this act is intended to amend, till the ſame are paid; and the ſaid ſeveral ſums of intereſt, ſhall be paid at the ſame time, and in the ſame manner, that the principal on which ſuch intereſt may accrue, is by law directed to be paid: *Provided nevertheleſs*, that nothing herein contained, ſhall be ſo conſtrued, as to prevent any or all of ſaid occupants from paying ſaid inſtalments at the time heretofore preſcribed: *And provided further*, that nothing herein contained, ſhall be ſo conſtrued, as to authoriſe a grant to be iſſued to any of ſaid occupants until the firſt inſtalment of ſaid purchaſe money is actually paid.

CHAP. LXXIII.

An act defining the puniſhment to be inflicted on perſons guilty of the crimes and offences therein mentioned.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That every perſon convicted of ſimple larceny, by the feloniouſly ſtealing, taking and carrying away of the perſonal goods of another perſon, of the value of ten dollars or upwards; and all acceſſaries thereto before the fact, ſhall be deemed guilty of grand larceny, and for the firſt offence ſhall be ſentenced by the court before whom convicted, to receive a number of laſhes on his or her bare back, at the public whipping poſt, not exceeding thirty-nine, and be impriſoned at the diſcretion of the court, not exceeding twelve months, and be rendered infamous, as by the laws of the land, perſons convicted of petit larceny are infamous; and further it ſhall be the duty of the jury, at the ſame time they find ſuch perſon guilty, alſo to find the value of the goods ſo ſtolen, and judgment ſhall be rendered for the value ſo found againſt the defendant, which judgment may be diſcharged by delivering to the owner, the goods ſo ſtolen, in the ſame ſtate and condition they were in, at the time when ſtolen, and payment of all coſts and charges of proſecution; but if ſaid goods be not delivered to the owner thereof, execution may iſſue againſt the perſon or property of the ſaid defendant, for the value ſo found by the jury, and the coſt of proſecution aforeſaid: *Provided*, that nothing herein contained, ſhall be conſtrued, to render the owner of the goods ſtolen, incompetent to give teſtimony at the trial of any indictment or proſecution for ſtealing the ſame: *And provided further*, that any perſon indicted or proſecuted for grand larceny, may by the jury trying ſaid indictment or preſentment, be found guilty of petit larceny.

2. *Be it enacted*, That every perſon convicted a ſecond time, either as principal or acceſſary before the fact, of ſimple larceny, by the feloniouſly ſtealing, taking and carrying away of the perſonal goods of another, of the value of ten dollars or upwards, ſuch perſon and his or her acceſſaries before the fact, ſhall for ſuch ſecond offence ſuffer death, without benefit of clergy.

3. *Be it enacted*, That if any perſon ſhall feloniouſly ſteal, take and carry away the perſonal goods of another, under the value of ten dollars, or be acceſſary to ſuch ſtealing, before the fact, ſuch perſon ſhall be adjudged guilty of petit larceny, and liable to all the pains, penalties, diſabilities and infamy thereof.

4. *Be it enacted*, That every perſon who ſhall feloniouſly ſteal, take and carry away, any horſe, mare or gelding, the property of another perſon, the perſon ſo offending, ſhall, for the firſt offence be adjudged and ſentenced by the court before whom convicted, to receive on his or her bare back, a number of laſhes, not exceeding thirty nine, be impriſoned at the diſcretion of the court, not leſs than ſix months and not exceeding two years, ſhall ſit in the pillory two hours on three different days, and ſhall be rendered infamous, as by law perſons convicted of petit larceny are infamous, and ſhall be branded with the letters H. T. in ſuch manner and on ſuch part of his perſon as the court ſhall direct; and on the ſecond conviction ſhall ſuffer death without benefit of clergy. And moreover, it ſhall be the duty of the jury trying ſuch perſon, at the time he or ſhe is found guilty, alſo, to aſcertain the value of the horſe, mare or gelding ſo ſtolen, and judgment ſhall be entered for ſuch value and the coſt of proſecution; which judgment may be diſcharged by delivering to the proper owner, the property ſo ſtolen, and coſt, otherwiſe execution may iſſue as directed in the firſt ſection of this act: *Provided*, that nothing in this ſection contained, ſhall be conſtrued to render the owner of the property ſtolen, an incompetent witneſs to give teſtimony at the trial of any indictment or preſentment for ſtealing the ſame.

5. *Be it enacted*, That every perſon being convicted of having forged, counterfeited or altered any deed of conveyance or power of attorney, bond, bill of ſale, cotton receipt, land warrant, note of hand, bill of exchange or other inſtrument of writing, with or without ſeal, for the payment or delivery of any money or property, fraudulently and with intention to prejudice another's right, ſhall for the firſt offence, be ſentenced by the court before whom convicted, to receive on his or her bare back, at the public whipping poſt, not exceeding thirty nine laſhes, be impriſoned at the diſcretion of the court not exceeding three months, ſhall ſit in the pillory two hours on three different days, ſhall become infamous, as if convicted of petit larceny, and on the ſecond conviction, ſhall ſuffer death without benefit of clergy.

6. *Be it enacted*, That the perſon or perſons whoſe name appears to be ſigned to any writing, or the perſon whoſe right is intended to be prejudiced by any writing, ſhall not be there-

by diſqualified to give evidence at the trial of any indictment or preſentment, for the forging, counterfeiting or altering the ſame.

7. *Be it enacted,* That every perſon convicted of wilful and corrupt perjury, ſhall be puniſhed by fine, impriſonment, whipping, and ſhall be rendered infamous, in the ſame manner & to the full extent preſcribed in the fifth ſection of this act, for the puniſhment of perſons convicted of forgery; and every perſon convicted of wilful and corrupt perjury, ſhall for the ſecond offence, ſuffer death without benefit of clergy.

8. *Be it enacted,* That if two or more perſons ſhall conſpire together, to indict or proſecute an innocent man or woman, falſely, maliciouſly and knowingly, for felony, or for any of the crimes before mentioned in this act, which innocent man or woman is accordingly indicted or proſecuted, and acquitted, each and every perſon ſo offending, ſhall on conviction thereof, be puniſhed in the ſame manner and degree for the firſt offence, as perſons convicted of grand larceny are, by the firſt ſection of this act made puniſhable, and for the ſecond offence ſhall ſuffer death without benefit of clergy. And if, by ſuch conſpiracy and proſecution, the life of an innocent man or woman be taken away, each and every ſaid conſpirators ſhall, on conviction, ſuffer death without benefit of clergy; *Provided always,* that upon the trial of any perſon or perſons for a conſpiracy, the acquital of the perſon or perſons againſt whom it is alledged the conſpiracy was entered into, ſhall not be given in evidence againſt ſuch conſpirator or conſpirators.

9. *Be it enacted,* That every perſon convicted of wilfully and maliciouſly burning any out houſe, barn, ſtable, public ware houſe or houſe for the reception of cotton, ſhall for the firſt offence be puniſhed in the ſame manner and degree as perſons convicted of grand larceny are puniſhed, by the firſt ſection of this act, and ſhall alſo become infamous, and on the ſecond conviction, ſhall ſuffer death without benefit of clergy.

10. *Be it enacted,* That every perſon knowingly and wilfully receiving into his or her poſſeſſion and cuſtody, any horſe, mare or gelding, which ſhall have been ſtolen, knowing the ſame to be ſo ſtolen, ſuch perſon ſhall on conviction thereof, be fined at the diſcretion of the court before whom convicted, in the ſum of fifty dollars, be impriſoned, not exceeding three months, be diſqualified to hold any office either civil or military, within this ſtate, and moreover, ſhall forfeit and pay to the owner of the property double the value of each and every horſe, mare or gelding ſo by him or her received, and alſo receive thirty nine laſhes on his or her bare back.

11. *Be it enacted,* That if any perſon ſhall, wilfully or knowingly receive into his or her poſſeſſion and cuſtody, any goods which ſhall have been ſtolen, and at the time of receiving the ſame, ſhall know them to be ſtolen, ſuch perſon ſhall, on conviction thereof, forfeit and pay to the owner of ſaid goods the value thereof, ſhall be fined by the court before whom convicted, in the ſum of fifty dollars, and ſhall be impriſoned,

not exceeding three months, and receive, not exceeding twenty five laſhes.

12. *Be it enacted,* That every perſon convicted of aiding or aſſiſting any priſoner or priſoners in breaking the priſon, in which ſuch priſoner or priſoners may be confined, either by giving to, or ſupplying ſuch priſoner or priſoners with any tool or utenſil, by which the ſaid breach may be effected, or in anywiſe contribute to ſuch breach, ſuch perſon ſhall be fined by the court in a ſum, not exceeding fifty dollars, and impriſoned, not exceeding three months, notwithſtanding the aforeſaid priſoner or priſoners may not have been tried, or on trial ſhall have been acquitted.

13. *Be it enacted,* That whoſoever ſhall on purpoſe and malice aforethought, by lying in wait unlawfully cut out or diſable the tongue, put out an eye, ſlit the noſe, ear or lip, or cut off or diſable any limb or member, with intention of ſo doing to maim or diſfigure any perſon, or ſhall voluntarily, maliciouſly, unlawfully and of purpoſe, pull or put out an eye, bite off an ear, noſe or lip, or ſtab any perſon who ſhall not have a weapon then drawn, while fighting or otherwiſe, every ſuch offender, ſhall on conviction, be fined in a ſum, not exceeding fifty dollars, and be impriſoned, not exceeding three months for the firſt offence, and for the ſecond offence, ſuch perſon ſhall be fined and impriſoned in manner aforeſaid, and ſhall be diſqualified to hold any office of honor, profit or truſt, either civil or military, under the authority of this ſtate.

14. *Be it enacted,* That all perſons ſubjected by this act, to impriſonment, who ſhall not poſſeſs a ſufficient quantity of property, from which the ſheriff can make the full amount of the coſts and charges accrued by ſuch impriſonment, then and in that caſe, the ſheriff is hereby authoriſed, and it ſhall be his duty to ſell out ſuch perſon for the ſhorteſt term, any perſon will take the ſaid culprit for, to defray ſaid coſts and charges.

15. *Be it enacted,* That nothing in this act contained, ſhall be conſtrued to prevent any court from entering up judgment for a greater ſum than fifty dollars, againſt a perſon guilty of any of the offences in this act mentioned, provided the ſiad ſum be aſſeſſed by a jury, at the trial of the cauſe.

CHAP. LXXVI.

An act to ſecure the free navigation of Nolichuckey river.

1. *Be it enacted by the General Aſsembly of the State of Tenneſsee,* That from and after the paſſing of this act, the river Nolichuckey from Brownſburgh to the mouth of ſaid river ſhall be, and remain a public way, free and open, affording an unmoleſted nvaigation to all perſons who may wiſh to deſcend ſaid river, with boats, crafts, or other carriage by water.

2. *Be it enacted*, That if any perſon or perſons ſhall hereafter, erect or cauſe to be erected either dams or fiſh traps or any other obſtruction ſo as to moleſt the free paſſage of boats in ſaid river, on conviction thereof, each and every perſon thus tranſgreſſing, ſhall forfeit and pay the ſum of one hundred dollars for every ſuch tranſgreſſion, which ſhall be recovered before any juriſdiction having cognizance thereof, to be applied to the uſe of opening ſaid river; alſo, all damages that the owner or owners of ſaid boat or boats may ſuſtain from ſuch obſtruction, dams or traps.

3. *Be it enacted*, That it ſhall be the duty of each county court, to appoint two fit and proper perſons to examine ſaid river as far as it may extend through their county, at leaſt once in each year, and make return of all perſons tranſgreſſing as ſtated the in ſection ſecond; and it ſhall alſo be the duty of the ſaid two inſpectors, to receive ſubſcriptions for the purpoſe of opening ſaid river, and all money ſo received, ſhall be appropriated for the above purpoſe, after reſerving the ſum of two dollars per day for their own ſervices for ſuch length of time as they may be neceſſarily employed in ſaid ſervice.

CHAP. LXXX.

An act ſupplemental to the laws now in uſe and force concerning eſtrays.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That it ſhall be the duty of the ranger in each and every county in this ſtate, and that they are hereby directed to publiſh in ſome Gazette, if any there be printed in the juridical diſtrict to which their county is attached, a particular deſcription of each eſtray horſe, mare, colt or gelding, that ſhall be entered on the books kept by him, together with the ſum to which the ſame may be appraiſed, and the perſons names and place of reſidence who has taken up ſuch eſtray, within three weeks after ſuch entry is made: *Provided*, that the printer of ſuch Gazette, will receive as a compenſation for publiſhing the ſame three times in three weeks ſucceſſively one dollar; which the perſon taking up ſuch eſtray, ſhall depoſit with the ranger at the time of reporting ſaid eſtray to be entered on his books; and ſuch ſum of one dollar, ſhall be refunded to the perſon taking up ſaid eſtray, by the owner or perſon proving and recovering it from the poſſeſſion of the taker up: *Provided nevertheleſs*, That if the owner ſhall apply to the taker up of ſaid eſtray before publication, the money depoſited ſhall be refunded to ſaid taker up by ſaid ranger; and that each and every ranger failing to comply with the proviſions of this act without good cauſe for ſuch failure, ſhall forfeit to the owner of any mare, horſe, colt or gelding ſo taken up, all ſuch damages as ſhall accrue on account of ſuch failure.

9. *Be it enacted*, That the ranger ſhall be entitled to receive the ſum of twenty-five cents for each certificate by him made out for publication as by this act required, and tranſmitting the ſame to the printer, to be paid by the taker up of ſuch eſtray, and refunded to ſaid taker up by the perſon who ſhall prove away ſuch ſtray.

CHAP. LXXXI.

An act to compel perſons obtaining writs of certiorari & writs of error, to give ſecurity.

1. *Be it enacted by the General Assembly of the State of Tenneſsee*, That whenever any perſon or perſons, or the agent of ſuch perſon or perſons ſhall be about to obtain a writ of certiorari to bring the proceedings in any cauſe from the county court into the ſuperior court, or from before a juſtice of the peace into the county court, it ſhall be a duty of the clerk of ſuch ſuperior or county court before iſſuing ſuch writ of certiorari, or a writ of ſuperſedeas, in any ſuch cauſe, to demand and take from the perſon applying for ſaid writ or his agent, bond with ſecurity, approved by ſaid clerk, in double the ſum for which ſaid judgment ſhall have been recovered, payable to the oppoſit and contending party in ſaid cauſe, with a condition that the ſame ſhall be void, if ſaid party proſecute his certiorari with effect, or in caſe he fail, that he will perform whatever judgment ſhall be awarded and rendered by ſaid court in ſaid cauſe: or in caſe ſaid certiorari ſhall be diſmiſſed by ſaid county or ſuperior courts for informality or want of ſufficient ſubſtance, that ſaid perſon ſo obtaining ſaid certiorari, ſhall well and truly ſatisfy ſuch judgment, as the county court or juſtice of the peace (as the caſe be) ſhall have given againſt him; and it ſhall not be lawful for any clerk to iſſue a writ of certiorari and ſuperſedeas, without bond and ſecurity taken as aforeſaid.

2. *Be it enacted*, That in all caſes where a cauſe ſhall be brought from before a juſtice into a county court, or from a county court into a ſuperior court by certiorari as aforeſaid, and the party praying ſuch certiorari ſhall be caſt in ſaid cauſe, it ſhall be lawful for the court in which ſaid cauſe is ſo decided, at the motion of the party in whoſe favour ſaid cauſe is decided, to enter up judgment inſtanter againſt the principal and his ſecurities, for whatever ſum ſhall be recovered with ſix per cent. intereſt, and coſts, and execution ſhall iſſue for the ſame.

WHEREAS writs of error are frequently obtained to remove cauſes from a county to a ſuperior court for the ſake of delay: For the prevention whereof,

3. *Be it enacted*, That from and after the paſſing of this act, that in all caſes where a party applies to a ſuperior court for a writ of error to remove a record or tranſcript thereof, from a county to a ſuperior court, that before allowing the ſame, the ſaid ſuperior court ſhall cauſe ſuch applicant to enter into

bond with ſufficient ſecurity, in double the ſum for which the judgment may have been rendered in ſaid county court conditioned, that ſaid applicant ſhall ſtand to, abide by, and perform ſuch judgment, as ſaid ſuperior court may give thereon; and that in all caſes where ſaid ſuperior court ſhall affirm the judgment of a county court brought up by a writ of error, allowed either by a ſuperior or county court, that it ſhall be the duty of ſaid ſuperior court upon the motion of the defendant in error, to grant a judgment inſtanter againſt the plaintiff in error and his ſecurities, for the ſum recovered in the county court, and to tax thereon, at the rate of twelve and one half per cent. per annum, from the time ſuch judgment may have been rendered in the county court, till the time of affirming ſuch judgment in ſaid ſuperior court.

4. *Be it enacted*, That in all caſes where a cauſe may have been removed into a county court by appeal, it ſhall be lawful for either party to appeal to the ſuperior court from the judgment of the county court, in the ſame manner, and on the ſame terms and conditions, as if ſaid ſuit had been originally commenced in ſaid county court.

CHAP. LXXXII.

An act to authoriſe the reception of the journals of the Senate and Houſe of Repreſentatives of this ſtate, as evidence.

Be it enacted by the General Aſſembly of the State of Tenneſſee, That from and after the paſſing of this act, that on the trial of any cauſe in any court in this ſtate, the printed or manuſcript journals of the ſenate and houſe of repreſentatives of the general aſſembly of this ſtate, or either of them, or a copy thereof, certified by the ſecretary of ſtate, ſhall and may be received as prima facie evidence, in any court where the matter contained in them, relates to the facts neceſſary to be eſtabliſhed in ſuch cauſes.

CHAP. LXXXIII

An act to prevent any perſon or perſons from erecting any works on the Caney Fork, that will have a tendency to obſtruct the navigation of ſaid river.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That the main channel of the Caney Fork river, ſhall be conſidered a public way, from the falls in ſaid river, to the junction thereof, with the river Cumberland; and ſaid channel ſhall in no caſe be obſtructed by fiſh traps or otherwiſe.

2. *Be it enacted*, That it ſhall and may be lawful for any perſon or perſons to erect a fiſh trap or traps on the ſmall ſluice or inner ſide of the iſlands, ſo as not to obſtruct the navigation of the main channel of ſaid river; and that ſaid fiſh traps ſo erected, ſhall remain free and unmoleſted, to the uſe of

the owner or owners; *Provided nevertheleſs*, that if any perſon or perſons ſhall erect any fiſh trap or traps, contrary to the ſpirit of this act, he or they who ſhall ſo erect ſuch traps, ſhall be ſubject to indictment in the county court of Smith for ſuch offence; and upon conviction, ſhall be fined by ſaid court in a ſum not exceeding fifteen dollars for each offence, and fifteen dollars per month, for each and every month the ſaid trap or traps ſhall remain to the obſtruction of the navigation of ſaid river, after conviction as aforeſaid.

CHAP. LXXXV.

An act for the relief of perſons who have not had their deeds, grants, meſne conveyances, or bills of ſale, regiſtered within the time heretofore preſcribed by law.

3. *Be it enacted*, That all deeds of conveyance for the abſolute transfer of any real property, all deeds of truſt or of mortgage, powers of attorney, bills of ſale or other inſtruments of writing which ſhall hereafter be exhibited for regiſtration in any county within this ſtate, ſhall firſt have been proven or acknowledged in the following manner, that is to ſay; all ſuch deeds of conveyance, deeds of truſt or of mortgage, and powers of attorney, authoriſing the transfer of real property, ſhall be acknowledged by the grantor in ſuch deed or power of attorney, or be proven by at leaſt two ſubſcribing witneſſes thereto, in the court of the county, or the court of the diſtrict where ſuch land or ſome part thereof lies, except in the caſe of non-reſident grantors or bargainors herein after provided for, and all bills of ſale or other inſtruments of writing for the transfer of perſonal property, ſhall be ſo acknowledged or proven in the court of any diſtrict or county within this ſtate; and all deeds of conveyance, deeds of truſt or of mortgage, and powers of attorney for the transfer of lands wherein the grantor or bargainor ſhall reſide beyond the limits of this ſtate, within any other ſtate or territory, (the execution of which ſhall not have been acknowledged or proven in this ſtate in manner as herein before expreſſed,) ſhall be acknowledged by the grantor or bargainor, or the execution thereof be proven by two or more ſubſcribing witneſſes thereto in ſome court of record of ſome one of the ſtates or territories of the United States, the evidence of which, ſhall be the atteſtation of the clerk of ſuch court in which ſaid acknowledgment or probate was made under the ſeal of his office, and the atteſtation of the preſiding judge or juſtice of ſaid court which probate or acknowledgment in each of the caſes above named, ſhall be endorſed by ſaid clerk on the back of ſuch deed or other inſtrument of writing, and ſhall entitle the ſame to regiſtration (if for the transfer or authoriſing the transfer of lands) in the county or counties where ſuch land ſhall lie; and if for the transfer of perſonal property in the county where ſuch vendee or bargainee ſhall reſide, and if ſuch vendee or bargainee be not a reſident of any county in this ſtate, it ſhall

be regiſtered in the county wherein the ſame has been proven or acknowledged ; and it ſhall be the duty of each and every regiſter to regiſter the whole of the certificate or certificates of probate endorſed on the back of each and every deed, power of attorney, bill of ſale, or other inſtrument of writing by him regiſtered.

4. *Be it enacted*, That all deeds of conveyance for the abſolute transfer of any real property, and all powers of attorney authoriſing the ſale or transfer of any lands, all deeds of truſt or of mortgage, bills of ſale of negroes or other perſonal property, which have heretofore been executed, and the time of regiſtration has not expired, and which may hereafter be executed, ſhall be proven or acknowledged in manner herein before required, & be regiſtered within the proper county where the ſame by this act ought to be regiſtered within the following times, that is to ſay : All deeds of conveyance for the abſolute tranfer of lands, and all powers of attorney authoriſing the transfer of lands, within two years from and after the date of the ſame, or within two years, from and after the paſſing of this act ; all deeds of truſt or of mortgage, within one year from and after the date of the ſame, or within one year after the paſſing of this act ; all bills of ſale for the transfer of negroes or other perſonal property within one year from and after the date of the ſame, or within one year from and after the paſſing of this act, otherwiſe the ſame ſhall be void as againſt creditors and ſubſequent purchaſers.

5. *Be it enacted*, That it ſhall be the duty of the clerk of any court within this ſtate, when any inſtrument of writing required by this act to be regiſtered, is produced in court for probate or acknowledgment, to inform the court thereof in a public manner, before he ſhall proceed to take ſuch probate or acknowledgment ; and it ſhall be his duty to record in books kept for that purpoſe, every ſuch probate.

CHAP. LXXXVIII.

An act to provide for the payment of witneſſes in criminal proſecutions.

WHEREAS under the exiſting laws, witneſſes are obliged to attend courts in behalf of the ſtate, at great expences to themſelves, and frequently without any compenſation being made therefor :——For remedy whereof,

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That from and after the paſſing of this act, all fines and forfeitures ariſing, and that may be hereafter collected, purſuant to the judgment or ſentence of any county court ; and all fines and forfeitures ariſing, or that may be collected purſuant to the judgment or ſentence of any juſtice of the peace, or any penal law, or ſo much of ſuch fine or forfeiture as ſhall or may accrue to the ſtate or county, ſhall be paid into the hands of the truſtee of ſuch county where ſuch fine or forfeiture ſhall have ariſen ; and ſhall conſtitue and be a ſeparate and diſtinct fund for the payment of witneſſes in behalf of the

of the ſtate, in ſuch caſes in ſaid county coruts where the defendant ſhall have been acquitted, and the proſecutor not taxed with the coſts, or where the coſts cannot be collected from the defendant, although convicted.

4. *Be it enacted*, That upon any ſuch witneſs as aforeſaid, or the aſſignee of ſuch witneſs, producing his or her certificate of attendance from the clerk of ſuch court to the truſtee of the county where ſuch claim may have ariſen, he ſhall docket the ſame, noting the time when ſuch claim may have accrued, the name of the claimant and the amount of ſuch claim; and ſhall pay the ſame, out of any monies in his hand appropriated for the aforeſaid purpoſe: *Provided*, that where two or more claims ſhall be preſented to the ſaid truſtee at the ſame time, or where ſeveral ſuch claims may have been docketed before payment, he ſhall pay ſuch claim according to the order of time in which ſaid claims may have originated.

5. *Be it enacted*, That all fines and forfeitures that ſhall hereafter ariſe and be collected purſuant to any judgment or ſentence of any ſuperior court in this ſtate, ſhall conſtitute and be a fund in the hands of the clerk of ſuch court, for the payment of ſuch witneſſes in behalf of the ſtate, in any crimnial caſe in ſaid court, where the defendant ſhall have been acquitted, and the proſecutor not taxed with coſts; or where the coſts cannot be collected of the defendant on a conviction; and the ſaid clerk ſhall docket, and pay the claims ariſing under this ſection, in the ſame manner that the truſtees are directed by the third ſection of this act, and ſhall be entitled to the ſame compenſation that truſtees are allowed by law for receiving and diſburſing county taxes.

CHAP. XCV.

An act to amend the law regulating contracts in particular caſes.

1. *Be it enacted by the General Aſſembly of the State of Tenneſſee*, That in all contracts hereafter to be made for the payment or delivery of property, if the time and place or either be not aſcertained in the contract, it ſhall be the duty of the payee to give the prayor ten days notice of the time or place, or both, as the caſe may be, required for the payment or delivery of ſuch property, which place ſhall not be at a greater diſtance from the reſidence of the payor than that of the payee, & which ſhall be in the ſame county; and if no ſuch notice be given, the property ſhall be payable at the place of reſidence of the payor; and no action ſhall be maintained on any ſuch contract, until ſuch notice be given or demand made at the uſual reſidence of the payor: *Provided*, ſuch payor ſhall reſide in the county where ſuch contracts ſhall have been made.

2. *Be it enacted*, That in all contracts for the delivery of ſpecific articles, not exceeding the value of fifty dollars, a juſtice of the peace ſhall have full and complete juriſdiction, and ſhall award judgment and iſſue execution, as in other caſes: *Provided always*, that either of the parties ſhall have the right of appeal from ſuch judgment.

CHAP. XCIX.

An act to prevent ſheriffs, coroners and conſtables from taking undue advantages in ſelling property under execution.

1. *Be it enacted by the General Assembly of the State of Tennessee,* That from and after the paſſage of this act, it ſhall not be lawful for any ſheriff, coroner or conſtable to expoſe to public ſale, any property whether real or perſonal, on which he may have levied an execution or attachment, before the hour of ten in the forenoon or after ſun ſet on the day on which he may have advertiſed the ſame for ſale.

2. *Be it enacted,* That all ſales that may hereafter be made, before the hour of ten or after ſun ſet, ſhall be void, any law, uſage or cuſtom to the contrary notwithſtanding.

CHAP. C

An act to amend an act entitled "An act to amend the law in force and uſe concerning free negroes, mulattoes and ſlaves," paſſed the 13th day of September, 1806.

1. *Be it enacted by the General Assembly of the State of Tennessee,* That the ſecond ſection of ſaid act be and the ſame is hereby repealed ; and that if any free negro or mulatto ſhall hereafter be found travelling out of the county where he or ſhe may reſide without any lawful buſineſs, or be found loitering about without any occupation, without a copy of the regiſter of his or her freedom, as required in the firſt ſection of ſaid act, it ſhall and may be lawful for any juſtice of the peace, on complaint made to him or from his own knowledge of ſaid fact to require ſecurity of ſaid negro or mulatto for his or her good behavior until ſaid regiſter can be obtained ; and in caſe of his or her failing to give ſuch ſecurity, to commit ſaid negro or mulatto, who ſhall be impriſoned for the term of ten days, and until his or her jail fees are paid, unleſs he, ſhe or they ſhall give ſuch ſecurity and pay ſuch fees before that time, or produce ſaid certificate of freedom before that time.

CHAP. CI.

An act ſupplementary to an act entitled "An for the better eſtabliſhment and regulation of the militia of this ſtate," paſſed at Knoxville on the 5th of November 1803.

1. *Be it enacted by the General Assembly of the State of Tennessee,* That there ſhall be one company of riflemen raiſed in each regiment, by voluntary enliſtment, to be and remain a part of the regiment in which it ſhall be raiſed, and to be known the name of the "Volunteer Riflemen."

2. *Be it enacted,* That the field officers in each regiment ſhall apppoint ſuitable perſons pro tempore to raiſe ſuch company which ſhall conſiſt of not leſs than forty nor more than ſixty

privates, but ſhall not reduce any company in the regiment to a leſs number than that preſcribed by law; and ſuch company when raiſed, ſhall elect their own officers, and regulate their uniform. And it ſhall be the duties of the ſheriffs of the ſeveral counties in this ſtate, to hold election for that purpoſe, after giving twenty days notice, and to certify the perſon elected, and the governor ſhall commiſſion them accordingly.

3. *Be it enacted*, That each captain and ſubaltern in ſaid companies of Volunteer Riflemen, ſhall appear on parade with ſide arms; and each non-commiſſioned officer and private, with a good rifle, ſhot bag and powder horn, and be under the ſame rules, regulations and reſtrictions as other militia.

4. *Be it enacted*, That the company of Volunteer Riflemen when on parade for the purpoſe of being reviewed, ſhall take on the right of the regiment when there is no light infantry, but ſhould there be a company of light infantry in the regiment, the Volunteer Riflemen ſhall take poſt on the left of ſaid regiment.

5. *Be it enacted*, That the fine laid on non-commiſſioned officers and privates by the thirty ſeventh ſection of the above recited act for neglect of the duties therein mentioned, ſhall be raiſed to the ſum of fifty dollars; and the fine of commiſſioned officers to the ſum of one hundred dollars; and that it ſhall be lawful for the commandant of each regiment whenever he may deem it expedient, to call a court martial and aſſeſs fines on all delinquents; and it ſhall be the duty of the judge advocate to iſſue executions immediately, and put them into the hands of the ſheriff and the ſheriff ſhall proceed to collect the ſame agreeably to the proviſions of the before recited act to which this is a ſupplement.

6. *Be it enacted*, That ſo much of the forty ſixth ſection of the above recited act, as requires the cavalry of this ſtate to meet and hold regimental muſters, and their regimental court martial to be holden once in each year, at the diſtrict court houſes, or ſuch other place as may be fixed by the regimental court martial, be, and the ſame is hereby repealed. And that the different companies of cavalry in this ſtate, ſhall be viewed at the reſpective regimental muſters of the infantry at which they ſhall attend, by one of the field officers of the cavalry of the diſtrict to which they belong, once in each year.

7. *Be it enacted*, That it ſhall be the duty of the colonel or commanding officer of each regiment of cavalry, to point out which major ſhall review each company in his regiment, and to review them himſelf once in every two years, or oftener, if he thinks it expedient.

8. *Be it enacted*, That the cavalry ſhall attend at the battalion muſters of the infantry in their reſpective counties; and where there are two companies of cavalry in one county, the commanding officer of the regiment, ſhall direct which battalion each company ſhall attend; and where there is but one, they ſhall attend the battalion muſter alternately, beginning with the firſt.

9. *Be it enacted*, That the captain of each company of cavalry, ſhall have power to receive any private into his company notwithſtanding ſuch perſon may not be completely equipped as the law directs, and give him a certificate to the captain of the company of infantry to which be belonged; and on his produceing ſuch certificate, the captain of infantry ſhall ſtrike him off his liſt.

10. *Be it enacted*, That the governor for the time being, is hereby authoriſed and required to commiſſion all officers of volunteer companies, who have, or may tender their ſervices to the preſident of the United States, agreeable to an act of the congreſs of the United States; and ſaid volunteers ſhall be conſidered as being in readineſs to march into actual ſervice when called for by the governor aforeſaid.

13. *Be it enacted*, That if any perſon who may hereafter be elected a ſergeant or corporal in any captain's company in this ſtate, ſhall refuſe to accept ſuch appointment and do the duties thereof for the term of one year at leaſt, every ſuch perſon ſo refuſing, ſhall be liable to be fined by the court martial of the company in which he may have been appointed, in any ſum not exceeding five dollars, which ſhall be collected in the ſame manner that other fines impoſed by ſuch courts martial are by law directed to be collected.

CHAP. CIV.

An act to provide for the payment of the members, clerks and door keepers, of the preſent general aſſembly; and for other purpoſes.

13. *Be it enacted*, That if either of the commiſſioners appointed by this general aſſembly, to adjudge warrants and other claims for land, under the proviſions of a law paſſed this ſeſſion, called the land law, ſhould refuſe to act, die or remove, the governor for the time being, is hereby authoriſed, empowered and required, to appoint a fit and proper perſon in the room and place of him ſo refuſing, being dead or removed; which perſon ſo appointed, ſhall poſſeſs all the powers, take the ſame qualifications, and be ſubject to the ſame penalties, as the commiſſioner in whoſe room and ſtead he was appointed, and be entitled to the ſame compenſation.

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